

REBUILD AMERICA’S SCHOOLS ACT OF 2022	
<hr style="width: 20%; margin: auto;"/> DECEMBER 7, 2022.—Ordered to be printed <hr style="width: 20%; margin: auto;"/>	
Mr. SCOTT of Virginia, from the Committee on Education and Labor, submitted the following	
R E P O R T	
together with	
MINORITY VIEWS	
[To accompany H.R. 604]	
<p>The Committee on Education and Labor, to whom was referred the bill (H.R. 604) to provide for the long-term improvement of public school facilities, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.</p>	
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<p>The amendment is as follows:  Strike all after the enacting clause and insert the following:</p>	

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Rebuild America’s Schools Act of 2022”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

**TITLE I—GRANTS FOR THE LONG-TERM IMPROVEMENT OF PUBLIC SCHOOL FACILITIES**

Sec. 101. Purpose and reservation.  
Sec. 102. Allocation to states.  
Sec. 103. Need-based grants to qualified local educational agencies.  
Sec. 104. Annual report on grant program.  
Sec. 105. Authorization of appropriations.

**TITLE II—SCHOOL INFRASTRUCTURE BONDS**

Sec. 201. Restoration of certain qualified tax credit bonds.  
Sec. 202. School infrastructure bonds.  
Sec. 203. Annual report on bond program.

**TITLE III—USES OF FUNDS**

Sec. 301. Allowable uses of funds.  
Sec. 302. Prohibited uses.  
Sec. 303. Requirements for hazard-resistance and energy and water conservation.  
Sec. 304. Green practices.  
Sec. 305. Use of american iron, steel, and manufactured products.

**TITLE IV—REPORTS AND OTHER MATTERS**

Sec. 401. Comptroller general report.  
Sec. 402. Study and report on physical condition of public schools.  
Sec. 403. Office of School Infrastructure and Sustainability.  
Sec. 404. Development of data standards.  
Sec. 405. Information clearinghouse.  
Sec. 406. Sense of congress on opportunity zones.

**TITLE V—IMPACT AID CONSTRUCTION**

Sec. 501. Temporary increase in funding for impact aid construction.

**TITLE VI—ASSISTANCE FOR REPAIR OF SCHOOL FOUNDATIONS AFFECTED BY PYRRHOTITE**

Sec. 601. Allocations to States.  
Sec. 602. Grants to local educational agencies.  
Sec. 603. Definitions.  
Sec. 604. Authorization of appropriations.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate.

(2) **BUREAU-FUNDED SCHOOL.**—The term “Bureau-funded school” has the meaning given that term in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021).

(3) **COVERED FUNDS.**—The term “covered funds” means funds received—

(A) under title I of this Act;

(B) from a school infrastructure bond; or

(C) from a qualified zone academy bond (as such term is defined in section 54E of the Internal Revenue Code of 1986 (as restored by section 201)).

(4) **ESEA TERMS.**—The terms “elementary school”, “outlying area”, and “secondary school” have the meanings given those terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(5) **LOCAL EDUCATIONAL AGENCY.**—The term “local educational agency” has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) except that such term does not include a Bureau-funded school.

(6) **PUBLIC SCHOOL FACILITIES.**—The term “public school facilities” means the facilities and grounds of a public elementary school or a public secondary school.

(7) **QUALIFIED LOCAL EDUCATIONAL AGENCY.**—The term “qualified local educational agency” means a local educational agency that receives funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(8) **SCHOOL INFRASTRUCTURE BOND.**—The term “school infrastructure bond” has the meaning given such term in section 54BB of the Internal Revenue Code of 1986 (as added by section 202).

(9) **SECRETARY.**—The term “Secretary” means the Secretary of Education.

(10) **STATE.**—The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

- (11) **NET ZERO ENERGY SCHOOL.**—The term “net zero energy school” means a public elementary school or public secondary school that—
- (A) generates renewable energy on-site; and
  - (B) on an annual basis, exports an amount of such renewable energy that equals or exceeds the total amount of renewable energy that is delivered to the school from outside sources.

## **TITLE I—GRANTS FOR THE LONG-TERM IMPROVEMENT OF PUBLIC SCHOOL FACILITIES**

### **SEC. 101. PURPOSE AND RESERVATION.**

- (a) **PURPOSE.**—Funds made available under this title shall be for the purpose of supporting long-term improvements to public school facilities in accordance with this Act.
- (b) **RESERVATION FOR OUTLYING AREAS AND BUREAU-FUNDED SCHOOLS.**—
  - (1) **IN GENERAL.**—For each of fiscal years 2023 through 2027, the Secretary shall reserve, from the amount appropriated to carry out this title—
    - (A) one-half of 1 percent, to make allocations to the outlying areas in accordance with paragraph (3); and
    - (B) one-half of 1 percent, for payments to the Secretary of the Interior to provide assistance to Bureau-funded schools.
  - (2) **USE OF RESERVED FUNDS.**—
    - (A) **IN GENERAL.**—Funds reserved under paragraph (1) shall be used in accordance with title III.
    - (B) **SPECIAL RULES FOR BUREAU-FUNDED SCHOOLS.**—
      - (i) **APPLICABILITY.**—The provisions of title III shall apply to a Bureau-funded school that receives assistance under paragraph (1)(B) in the same manner that such provisions apply to a qualified local educational agency that receives covered funds. The facilities of a Bureau-funded school shall be treated as public school facilities for purposes of the application of such provisions.
      - (ii) **TREATMENT OF TRIBALLY OPERATED SCHOOLS.**—The Secretary of the Interior shall provide assistance to Bureau-funded schools under paragraph (1)(B) without regard to whether such schools are operated by the Bureau of Indian Education or by an Indian Tribe. In the case of a Bureau-funded school that is a contract or grant school (as that term is defined in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021)) operated by an Indian Tribe, the Secretary of the Interior shall provide assistance under such paragraph to the Indian Tribe concerned.
  - (3) **ALLOCATION TO OUTLYING AREAS.**—From the amount reserved under paragraph (1)(A) for a fiscal year, the Secretary shall allocate to each outlying area an amount in proportion to the amount received by the outlying area under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the previous fiscal year relative to the total such amount received by all outlying areas for such previous fiscal year.

### **SEC. 102. ALLOCATION TO STATES.**

- (a) **ALLOCATION TO STATES.**—
  - (1) **STATE-BY-STATE ALLOCATION.**—
    - (A) **FISCAL YEAR 2023.**—Of the amount appropriated to carry out this title for fiscal year 2023 and not reserved under section 101(b), not later than 30 days after such funds are appropriated, each State that provides an assurance to the Secretary that the State will comply with the requirements of section 103(c) shall be allocated an amount in proportion to the amount received by all local educational agencies in the State under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the previous fiscal year relative to the total amount received under such part for such fiscal year by all local educational agencies in every State that provides such an assurance to the Secretary.
    - (B) **OTHER FISCAL YEARS.**—Of the amount appropriated to carry out this title for each fiscal year other than fiscal year 2023 and not reserved under section 101(b), each State that has a plan approved by the Secretary under subsection (b) shall be allocated an amount in proportion to the amount received by all local educational agencies in the State under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311

et seq.) for the previous fiscal year relative to the total amount received under such part for such fiscal year by all local educational agencies in every State that has a plan approved by the Secretary under subsection (b).

(2) STATE RESERVATION.—A State may reserve not more than 5 percent of its allocation under paragraph (1) to carry out its responsibilities under this Act, which shall include—

(A) providing technical assistance to local educational agencies, including by—

(i) identifying which State agencies have programs, resources, and expertise relevant to the activities supported by the allocation under this section; and

(ii) coordinating the provision of technical assistance across such agencies;

(B) in accordance with the guidance issued by the Secretary under section 404, developing an online, publicly searchable database that contains an inventory of the infrastructure of all public school facilities in the State (including the facilities of Bureau-funded schools, as appropriate), including, with respect to each such facility, an identification of—

(i) the information described in clauses (i) through (vii) of subparagraph (F);

(ii) the age (including an identification of the date of any retrofits or recent renovations) of—

(I) the facility;

(II) its roof;

(III) its electrical panels and lighting system;

(IV) its windows and any skylights;

(V) its cooking equipment and major appliances;

(VI) its plumbing; and

(VII) its heating, ventilation, and air conditioning system, including any energy management controls and systems;

(iii) fire safety inspection results;

(iv) the proximity of the facilities to toxic sites, including sites contaminated by per- and polyfluoroalkyl substances, or the vulnerability of the facilities to natural disasters, including the extent to which facilities that are vulnerable to seismic natural disasters are seismically retrofitted;

(v) any previous inspections showing the presence of toxic substances, including per- and polyfluoroalkyl substances;

(vi) any improvements that are needed to support indoor and outdoor social distancing, personal hygiene, and building hygiene (including with respect to heating, ventilation, and air conditioning usage) in school facilities, consistent with guidance issued by the Centers for Disease Control and Prevention; and

(vii) any improvements that are needed to support energy and water efficiency, resilience, and climate mitigation;

(C) updating the database developed under subparagraph (B) not less frequently than once every 3 years;

(D) ensuring that the information in the database developed under subparagraph (B)—

(i) is posted on a publicly accessible State website; and

(ii) is regularly distributed to local educational agencies and Tribal governments in the State;

(E) issuing and reviewing regulations to ensure the health and safety of students and staff during construction or renovation projects;

(F) issuing or reviewing regulations to ensure safe, healthy, and high-performing school buildings, including regulations governing—

(i) indoor environmental quality and ventilation, including exposure to carbon monoxide, carbon dioxide, lead-based paint, and other combustion by-products such as oxides of nitrogen;

(ii) mold, mildew, and moisture control;

(iii) the safety of drinking water at the tap and water used for meal preparation, including regulations that—

(I) address the presence of lead and other contaminants, including per- and polyfluoroalkyl substances, in such water; and

(II) require the regular testing of the potability of water at the tap and testing for contaminants, including per- and polyfluoroalkyl substances;

(iv) energy and water efficiency;

- (v) excessive classroom noise due to activities allowable under section 301;
  - (vi) the levels of maintenance work, operational spending, and capital investment needed to maintain the quality of public school facilities; and
  - (vii) the construction or renovation of such facilities, including applicable building codes;
  - (G) creating a plan to reduce or eliminate exposure to toxic substances, including mercury, radon, PCBs, lead, vapor intrusions, per- and polyfluoroalkyl substances, and asbestos; and
  - (H) creating a plan to increase the number of net zero energy schools in the State, including professional development opportunities for State and local educational agency staff involved in maintenance, operations, and school facilities capital outlay projects related to energy and water efficiency, resilience, climate mitigation, renewable energy, energy storage, and building electrification.
- (b) STATE PLAN.—
- (1) IN GENERAL.—Except as provided in paragraph (2), to be eligible to receive an allocation under this section, a State shall submit to the Secretary a plan that—
    - (A) describes how the State will use the allocation to make long-term improvements to public school facilities;
    - (B) explains how the State will carry out each of its responsibilities under subsection (a)(2);
    - (C) explains how the State will make the determinations under subsections (b) through (d) of section 103, including how the State will consider the impact that projects will have on student diversity and racial and socioeconomic isolation of students attending any current (as of the time of the submission of the plan) or future public school facilities supported by such projects;
    - (D) identifies how long, and at what levels, the State will maintain fiscal effort for the activities supported by the allocation after the State no longer receives the allocation; and
    - (E) includes such other information as the Secretary may require.
  - (2) EXPEDITED PROCESS FOR FISCAL YEAR 2023.—
    - (A) ASSURANCE TO SECRETARY.—To be eligible to receive an allocation for fiscal year 2023 under section 101(a)(1)(A), a State shall provide to the Secretary an assurance that the State will comply with the requirements of section 103(c).
    - (B) SUBMITTAL OF STATE PLAN.—A State shall not be required to submit a State plan under paragraph (1) before receiving an allocation for fiscal year 2023 under section subsection (a)(1)(A). A State that receives an allocation under such subsection for such fiscal year shall submit to the Secretary the State plan described in paragraph (1) not later than 90 days after the date on which such allocation is received.
    - (3) APPROVAL AND DISAPPROVAL.—The Secretary shall have the authority to approve or disapprove a State plan submitted under paragraph (1).
- (c) CONDITIONS.—As a condition of receiving an allocation under this section, a State shall agree to the following:
- (1) MATCHING REQUIREMENT.—
    - (A) IN GENERAL.—The State shall contribute, from non-Federal sources, an amount equal to 10 percent of the amount of the allocation received under this section to carry out the activities supported by the allocation.
    - (B) DEADLINE.—The State shall provide any contribution required under subparagraph (A) not later than September 30, 2030.
    - (C) CERTAIN FISCAL YEARS.—With respect to a fiscal year for which more than \$7,000,000,000 are appropriated to carry out this title, subparagraph (A) shall be applied as if “, from non-Federal sources,” were struck.
    - (D) COMMITMENT TO PROPORTIONAL STATE INVESTMENT IN SCHOOL FACILITIES.—
      - (i) IN GENERAL.—The State shall provide an assurance to the Secretary that for each fiscal year that the State receives an allocation under this section, the State’s share of school facilities capital outlay will be not less than 90 percent of the average of the State’s share of school facilities capital outlay for the 5 years preceding the fiscal year for which the allocation is received.
      - (ii) WAIVER.—Notwithstanding clause (i), in response to a request from a State, the Secretary may modify or waive, in whole or in part, the requirement of clause (i) if the Secretary determines that such

State demonstrates an exceptional or uncontrollable circumstance, such as a natural disaster, pandemic, or precipitous decline in revenue.

(iii) STATE'S SHARE OF SCHOOL FACILITIES CAPITAL OUTLAY.—In this subparagraph, the term “State’s share of school facilities capital outlay” means—

(I) the total State expenditures on school facilities capital outlay projects; divided by

(II) the total school facilities capital expenditures in the State on school facilities capital outlay projects.

(iv) TOTAL STATE EXPENDITURES.—In this subparagraph, the term “total State expenditures” means the State’s total expenditures (from funds other than an allocation under this section) on school facilities capital outlay projects, including—

(I) any direct expenditures by the State for the purpose of school facilities capital outlay projects; and

(II) funds provided by the State to local educational agencies for the purpose of school facilities capital outlay projects.

(v) TOTAL SCHOOL FACILITIES CAPITAL EXPENDITURES IN THE STATE.—In this subparagraph, the term “total school facilities capital expenditures in the State”, means the sum of—

(I) the total state expenditures calculated under clause (iv); plus  
(II) all additional expenditures (from funds other than an allocation under this section) on school facilities capital outlay projects by local educational agencies in the State that were not included in the calculation of total state expenditures under clause (iv).

(2) SUPPLEMENT NOT SUPPLANT.—The State shall use an allocation under this section only to supplement the level of State public funds that would, in absence of the receipt of Federal funds under this section, be made available for the State’s contribution to school facilities capital outlays, and not to supplant such State public funds.

#### SEC. 103. NEED-BASED GRANTS TO QUALIFIED LOCAL EDUCATIONAL AGENCIES.

(a) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(1) IN GENERAL.—Subject to paragraph (2), from the amounts allocated to a State under section 102(a) and contributed by the State under section 102(c)(1), the State shall award grants to qualified local educational agencies, on a competitive basis, to carry out the activities described in section 301(a).

(2) ALLOWANCE FOR DIGITAL LEARNING.—A State may use up to 10 percent of the amount described in paragraph (1) to make grants to qualified local educational agencies carry out activities to improve digital learning in accordance with section 301(b).

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a qualified local educational agency—

(A) shall be among the local educational agencies in the State with the highest numbers or percentages of students counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c));

(B) shall agree to prioritize the improvement of the facilities of public schools that serve the highest percentages of students who are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) (which, in the case of a high school, may be calculated using comparable data from the schools that feed into the high school), as compared to other public schools in the jurisdiction of the agency; and

(C) shall be among the local educational agencies in the State with the most limited capacity to raise funds for the long-term improvement of public school facilities, as determined by an assessment of—

(i) the current and historic ability of the agency to raise funds for construction, renovation, modernization, and major repair projects for schools;

(ii) whether the agency has been able to issue bonds or receive other funds to support school construction projects; and

(iii) the bond rating of the agency.

(2) EQUITABLE DISTRIBUTION.—

(A) NUMBERS AND PERCENTAGES OF CERTAIN STUDENTS.—In making the determination under paragraph (1)(A), the State shall ensure that grants under this section are equitably distributed among—

(i) qualified local educational agencies in the State with the highest numbers of students counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); and

(ii) qualified local educational agencies in the State with the highest percentages of students counted under such section.

(B) GEOGRAPHIC DIVERSITY.—The State shall ensure that grants under this section are awarded to qualified local educational agencies that represent the geographic diversity of the State.

(3) STATEWIDE THRESHOLDS.—The State shall establish reasonable thresholds for determining whether a local educational agency is among agencies in the State with the highest numbers or percentages of students counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)) as required under paragraph (1)(A).

(c) PRIORITY OF GRANTS FOR FISCAL YEAR 2023.—In awarding grants under this section for fiscal year 2023—

(1) the State shall first award grants to qualified local educational agencies that meet the requirements of subsection (d)(1) that will use the grant to improve the facilities of schools described in subsection (d)(1)(B) to support indoor and outdoor social distancing, personal hygiene, and building hygiene (including with respect to heating, ventilation, and air conditioning usage) in school facilities, consistent with guidance issued by the Centers for Disease Control and Prevention; and

(2) from any funds remaining after making grants to qualified local educational agencies that meet the requirements of paragraph (1), the State may award grants to other qualified local agencies in accordance with the priorities established under subsection (d).

(d) PRIORITY OF GRANTS FOR OTHER FISCAL YEARS.—Except as provided in subsection (c), in awarding grants under this section, the State shall give priority to qualified local educational agencies that—

(1)(A) demonstrate the greatest need for such a grant, as determined by a comparison of the factors described in subsection (b)(1) and other indicators of need in the public school facilities of such local educational agencies, including—

- (i) the median age of facilities;
- (ii) the extent to which student enrollment exceeds physical and instructional capacity;
- (iii) the condition of major building systems such as heating, ventilation, air conditioning, electrical, water, and sewer systems;
- (iv) the condition of roofs, windows, and doors; and
- (v) other critical health and safety conditions;

(B) will use the grant to improve the facilities of—

- (i) elementary schools or middle schools that have an enrollment of students who are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) that constitutes not less than 40 percent of the total student enrollment at such schools; or

- (ii) high schools that have an enrollment of students who are eligible for a free or reduced price lunch under such Act that constitutes not less than 30 percent of the total student enrollment at such schools (which may be calculated using comparable data from the schools that feed into the high school); and

(C) operate public school facilities that pose a severe health and safety threat to students and staff, which may include consideration of threats posed by the proximity of the facilities to toxic sites or brownfield sites or the vulnerability of the facilities to natural disasters; or

(2)(A) will use the grant to improve access to high-speed broadband sufficient to support digital learning in accordance with section 301(b);

(B) serve elementary schools or secondary schools, including rural schools, that lack such access; and

(C) meet one or more of the requirements set forth in subparagraphs (A) through (C) of paragraph (1).

(e) APPLICATION.—To be considered for a grant under this section, a qualified local educational agency shall submit an application to the State at such time, in such manner, and containing such information as the State may require. Such application shall include, at minimum—

(1) the information necessary for the State to make the determinations under subsections (b) through (d);

(2) a description of the projects that the agency plans to carry out with the grant;

- (3) an explanation of how such projects will—
    - (A) improve conditions for the health and safety of staff and students at schools served by the agency; and
    - (B) improve learning and reduce inequity for such students;
  - (4) an explanation of how such projects will improve school facilities' performance with respect to energy and water efficiency, resilience, and climate mitigation;
  - (5) in the case of a local educational agency that proposes to fund a repair, renovation, or construction project for a public charter school, the extent to which—
    - (A) the public charter school lacks access to funding for school repair, renovation, and construction through the financing methods available to other public schools or local educational agencies in the State; and
    - (B) the charter school operator owns or has care and control of the facility that is to be repaired, renovated, or constructed; and
  - (6) an explanation of how the local educational agency plans to increase the number of contracts such agency has with certified small businesses, minority-owned businesses, veteran-owned businesses, or women-owned businesses as of the date of submission of the application by awarding such contracts under projects supported by the grant.
- (f) FACILITIES MASTER PLAN.—
- (1) PLAN REQUIRED.—Not later than 180 days after receiving a grant under this section, a qualified local educational agency shall submit to the State a comprehensive 10-year facilities master plan.
  - (2) ELEMENTS.—The facilities master plan required under paragraph (1) shall include, with respect to all public school facilities of the qualified local educational agency, a description of—
    - (A) the extent to which public school facilities meet students' educational needs and support the agency's educational mission and vision;
    - (B) the physical condition of the public school facilities;
    - (C) the current health, safety, and environmental conditions of the public school facilities, including—
      - (i) indoor air quality;
      - (ii) the presence of toxic substances;
      - (iii) the safety of drinking water at the tap and water used for meal preparation, including the level of lead and other contaminants in such water;
      - (iv) energy and water efficiency, resilience, and climate mitigation;
      - (v) excessive classroom noise; and
      - (vi) other health, safety, and environmental conditions that would impact the health, safety, and learning ability of students;
    - (D) how the local educational agency will address any conditions identified under subparagraph (C);
    - (E) the impact of current and future student enrollment levels (as of the date of application) on the design of current and future public school facilities, as well as the financial implications of such enrollment levels;
    - (F) the dollar amount and percentage of funds the local educational agency will dedicate to capital construction projects for public school facilities, including—
      - (i) any funds in the budget of the agency that will be dedicated to such projects; and
      - (ii) any funds not in the budget of the agency that will be dedicated to such projects, including any funds available to the agency as the result of a bond issue; and
    - (G) the dollar amount and percentage of funds the local educational agency will dedicate to the maintenance and operation of public school facilities, including—
      - (i) any funds in the budget of the agency that will be dedicated to the maintenance and operation of such facilities; and
      - (ii) any funds not in the budget of the agency that will be dedicated to the maintenance and operation of such facilities.
  - (3) CONSULTATION.—In developing the facilities master plan required under paragraph (1)—
    - (A) a qualified local educational agency shall consult with teachers, principals and other school leaders, custodial and maintenance staff, emergency first responders, school facilities directors, students and families, community residents, and Indian Tribes; and
    - (B) in addition to the consultation required under subparagraph (A), a Bureau-funded school shall consult with the Bureau of Indian Education.



**SEC. 104. ANNUAL REPORT ON GRANT PROGRAM.**

(a) **IN GENERAL.**—Not later than September 30 of each fiscal year beginning after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the projects carried out with funds made available under this title.

(b) **ELEMENTS.**—The report under subsection (a) shall include, with respect to the fiscal year preceding the year in which the report is submitted, the following:

(1) An identification of each local educational agency that received a grant under this title.

(2) With respect to each such agency, a description of—

(A) the demographic composition of the student population served by the agency, disaggregated by—

(i) race;

(ii) the number and percentage of students counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); and

(iii) the number and percentage of students who are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(B) the population density of the geographic area served by the agency;

(C) the projects for which the agency used the grant received under this title, described using measurements of school facility quality from the most recent available version of the Common Education Data Standards published by the National Center for Education Statistics;

(D) the demonstrable or expected benefits of the projects, including any improvements—

(i) to conditions for health, safety, and learning; and

(ii) to school facilities with respect to energy and water efficiency, resilience, reduced carbon emissions, and climate mitigation;

(E) the square footage of the improvements made with covered funds;

(F) the total cost of each such project—

(i) in total; and

(ii) disaggregated by the costs of planning, design, construction, site purchase, and improvements;

(G) the estimated number of jobs created by the projects;

(H) of the total number of contracts awarded under the project, the percentage of such contracts that were awarded to certified small businesses, minority-owned businesses, veteran-owned businesses, and women-owned businesses; and

(I)(i) the total dollar value of contracts awarded under the project to certified small businesses, minority-owned businesses, veteran-owned businesses, and women-owned businesses, respectively; and

(ii) the total dollar value of contracts awarded under the project to all such businesses combined.

(3) The total dollar amount of all grants received by local educational agencies under this title.

(c) **LEA INFORMATION COLLECTION.**—A local educational agency that receives a grant under this title shall—

(1) annually compile the information described in subsection (b)(2);

(2) make the information available to the public, including by posting the information on a publicly accessible agency website; and

(3) submit the information to the State.

(d) **STATE INFORMATION DISTRIBUTION.**—A State that receives information from a local educational agency under subsection (c) shall—

(1) compile the information and report it annually to the Secretary at such time and in such manner as the Secretary may require;

(2) make the information available to the public, including by posting the information on a publicly accessible State website; and

(3) regularly distribute the information to local educational agencies and Tribal governments in the State.

**SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated \$20,000,000,000 for each of fiscal years 2023 through 2027 to carry out this title. Amounts so appropriated are authorized to remain available through fiscal year 2032.

## TITLE II—SCHOOL INFRASTRUCTURE BONDS

### SEC. 201. RESTORATION OF CERTAIN QUALIFIED TAX CREDIT BONDS.

#### (a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Section 54A of the Internal Revenue Code of 1986, as in effect on the day before repeal by Public Law 115–97, is revived.

#### (2) CREDIT LIMITED TO CERTAIN BONDS.—

(A) IN GENERAL.—Section 54A(d)(1) of such Code, as revived by paragraph (1), is amended by striking “means—” and all that follows through “which is part” and inserting “means a qualified zone academy bond which is part”.

(B) CONFORMING AMENDMENT.—Section 54A(c)(2)(C) of such Code, as revived by paragraph (1), is amended by striking “means—” and all that follows and inserting “a purpose specified in section 54E(a)(1)”.

#### (3) CONFORMING AMENDMENTS.—

(A) The Internal Revenue Code of 1986 is amended by inserting before section 54A (as revived by paragraph (1)) the following:

### “Subpart I—Qualified Tax Credit Bonds

“Sec. 54A. Credit to holder of qualified tax credit bonds.”.

(B) Section 6401(b)(1) of such Code is amended by striking “and G” and inserting “G, and I”.

(C) The table of subparts for part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

“SUBPART I—QUALIFIED TAX CREDIT BONDS”.

#### (b) CREDIT ALLOWED TO ISSUER.—

(1) IN GENERAL.—Section 6431 of the Internal Revenue Code of 1986, as in effect on the day before repeal by Public Law 115–97, is revived.

(2) CONFORMING AMENDMENT.—Section 6211(b)(4) of such Code is amended by striking “and 6428A” and inserting “6428A, and 6431”.

#### (c) QUALIFIED ZONE ACADEMY BONDS.—

(1) IN GENERAL.—Section 54E of the Internal Revenue Code of 1986, as in effect on the day before repeal by Public Law 115–97, is revived.

(2) EXTENSION OF LIMITATION.—Section 54(E)(c)(1) of such Code is amended—

(A) by striking “and \$400,000,000” and inserting “\$400,000,000”, and

(B) by striking “and, except as provided” and all that follows through the period at the end and inserting “, and \$1,400,000,000 for 2022 and each calendar year thereafter.”.

(3) REMOVAL OF PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—Section 54E of the Internal Revenue Code of 1986, as revived by paragraph (1) and amended by paragraph (2), is amended—

(A) in subsection (a)(3), by inserting “and” at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B),

(B) by striking subsection (b), and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(4) CONSTRUCTION OF A PUBLIC SCHOOL FACILITY.—Section 54E(c)(3)(A) of the Internal Revenue Code of 1986, as revived by paragraph (1) and redesignated in paragraph (3)(C), is amended by striking “rehabilitating or repairing” and inserting “constructing, rehabilitating, retrofitting, or repairing”.

#### (d) CONFORMING AMENDMENT RELATED TO APPLICATION OF CERTAIN LABOR STANDARDS.—

(1) IN GENERAL.—Subchapter IV of chapter 31 of the title 40, United States Code, shall apply to projects financed with the proceeds of any qualified zone academy bond (as defined in section 54E of the Internal Revenue Code of 1986) issued after the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009.

(2) CONFORMING AMENDMENT.—Section 1601 of the American Recovery and Reinvestment Tax Act of 2009 is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2022.

**SEC. 202. SCHOOL INFRASTRUCTURE BONDS.**

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by inserting after subpart I (as revived by section 201) of part IV of subchapter A of chapter 1 the following new subpart:

**“Subpart J—School Infrastructure Bonds**

“Sec. 54BB. School infrastructure bonds.

**“SEC. 54BB. SCHOOL INFRASTRUCTURE BONDS.**

“(a) IN GENERAL.—If a taxpayer holds a school infrastructure bond on one or more interest payment dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

“(b) AMOUNT OF CREDIT.—The amount of the credit determined under this subsection with respect to any interest payment date for a school infrastructure bond is 100 percent of the amount of interest payable by the issuer with respect to such date.

“(c) LIMITATION BASED ON AMOUNT OF TAX.—

“(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability of the taxpayer (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

“(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

“(d) SCHOOL INFRASTRUCTURE BOND.—

“(1) IN GENERAL.—For purposes of this section, the term ‘school infrastructure bond’ means any bond issued as part of an issue if—

“(A) 100 percent of the available project proceeds of such issue are to be used for the purposes described in section 301 of the Reopen and Rebuild America’s Schools Act of 2021,

“(B) the interest on such obligation would (but for this section) be excludable from gross income under section 103,

“(C) the issue meets the requirements of paragraph (3), and

“(D) the issuer designates such bond for purposes of this section.

“(2) APPLICABLE RULES.—For purposes of applying paragraph (1)—

“(A) for purposes of section 149(b), a school infrastructure bond shall not be treated as federally guaranteed by reason of the credit allowed under section 6431(a),

“(B) for purposes of section 148, the yield on a school infrastructure bond shall be determined without regard to the credit allowed under subsection (a), and

“(C) a bond shall not be treated as a school infrastructure bond if the issue price has more than a de minimis amount (determined under rules similar to the rules of section 1273(a)(3)) of premium over the stated principal amount of the bond.

“(3) 6-YEAR EXPENDITURE PERIOD.—

“(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects 100 percent of the available project proceeds to be spent for purposes described in section 301 of the Reopen and Rebuild America’s Schools Act of 2021 within the 6-year period beginning on such date of issuance.

“(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 6 YEARS.—To the extent that less than 100 percent of the available project proceeds of the issue are expended at the close of the period described in subparagraph (A) with respect to such issue, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

“(e) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1)(D) by any issuer shall not exceed the limitation amount allocated under subsection (g) for such calendar year to such issuer.

“(f) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The national qualified school infrastructure bond limitation for each calendar year is—

- “(1) \$10,000,000,000 for 2022,
- “(2) \$10,000,000,000 for 2023, and
- “(3) \$10,000,000,000 for 2024.

“(g) ALLOCATION OF LIMITATION.—

“(1) ALLOCATIONS.—

“(A) STATES.—After application of subparagraph (B) and paragraph (3)(A), the limitation applicable under subsection (f) for a calendar year shall be allocated by the Secretary among the States in proportion to the respective amounts received by all local educational agencies in each State under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the previous fiscal year relative to the total such amount received by all local educational agencies for the most recent fiscal year ending before such calendar year.

“(B) CERTAIN POSSESSIONS.—One-half of 1 percent of the amount of the limitation applicable under subsection (f) for a calendar year shall be allocated by the Secretary to possessions of the United States other than Puerto Rico for such calendar year.

“(2) ALLOCATIONS TO SCHOOLS.—The limitation amount allocated to a State or possession under paragraph (1) shall be allocated by the State educational agency (or such other agency as is authorized under State law to make such allocation) to issuers within such State or possession in accordance with the priorities described in subsections (c) and (d) of section 103 of the Reopen and Rebuild America’s Schools Act of 2021 and the eligibility requirements described in section 103(b) of such Act, except that paragraph (1)(C) of such section shall not apply to the determination of eligibility for such allocation.

“(3) ALLOCATIONS FOR INDIAN SCHOOLS.—

“(A) IN GENERAL.—One-half of 1 percent of the amount of the limitation applicable under subsection (f) for any calendar year shall be allocated by the Secretary to the Secretary of the Interior for schools funded by the Bureau of Indian Affairs for such calendar year.

“(B) ALLOCATION TO SCHOOLS.—The limitation amount allocated to the Secretary of the Interior under paragraph (1) shall be allocated by such Secretary to issuers or schools funded as described in paragraph (2). In the case of amounts allocated under the preceding sentence, Indian tribal governments shall be treated as qualified issuers for purposes of this subchapter.

“(4) DIGITAL LEARNING.—Up to 10 percent of the limitation amount allocated under paragraph (1) or (3)(A) may be allocated by the State to issuers within such State (in the case of an amount allocated under paragraph (1)) or by the Secretary of the Interior to issuers or schools funded by the Bureau of Indian Affairs (in the case of an amount allocated under paragraph (3)(A)) to carry out activities to improve digital learning in accordance with section 301(b) of the Reopen and Rebuild America’s Schools Act of 2021.

“(h) INTEREST PAYMENT DATE.—For purposes of this section, the term ‘interest payment date’ means any date on which the holder of record of the school infrastructure bond is entitled to a payment of interest under such bond.

“(i) SPECIAL RULES.—

“(1) INTEREST ON SCHOOL INFRASTRUCTURE BONDS INCLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.—For purposes of this title, interest on any school infrastructure bond shall be includible in gross income.

“(2) APPLICATION OF CERTAIN RULES.—Rules similar to the rules of subsections (f), (g), (h), and (i) of section 54A shall apply for purposes of the credit allowed under subsection (a).”.

(b) CREDIT ALLOWED TO ISSUER.—Section 6431(f)(3)(A) of such Code, as revived by section 201(b)(1), is amended by striking “means any qualified tax credit bond” and all that follows through the end of subparagraph (A) and inserting “means any bond if—

“(A) such bond is—

“(i) a qualified tax credit bond which is a qualified zone academy bond (as defined in section 54E) determined without regard to any allocation relating to the national zone academy bond limitation for years after 2010 or any carryforward of any such allocation, or

“(ii) any school infrastructure bond (as defined in section 54BB), and”.

(c) APPLICATION OF CERTAIN LABOR STANDARDS.—Subchapter IV of chapter 31 of the title 40, United States Code, shall apply to projects financed with the proceeds

of any qualified zone academy bond (as defined in section 54E of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) Section 6401(b)(1) of the Internal Revenue Code of 1986, as amended by section 201(a), is amended by striking “and I” and inserting “I, and J”.

(2) The table of subparts for part IV of subchapter A of chapter 1 of such Code, as amended by section 201(a), is amended by adding at the end the following:

“SUBPART J—SCHOOL INFRASTRUCTURE BONDS”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2022.

#### SEC. 203. ANNUAL REPORT ON BOND PROGRAM.

(a) IN GENERAL.—Not later than September 30 of each fiscal year beginning after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the appropriate congressional committees a report on the amendments made by sections 201 and 202.

(b) ELEMENTS.—The report under paragraph (1) shall include, with respect to the fiscal year preceding the year in which the report is submitted, the following:

(1) An identification of—

(A) each local educational agency (if any) that received an allocation under section 54E(b)(2) or 54BB(g) of the Internal Revenue Code of 1986, and

(B) each local educational agency (if any) that was eligible to receive such funds but did not receive such funds.

(2) With respect to each local educational agency described in paragraph (1)—

(A) an assessment of the capacity of the agency to raise funds for the long-term improvement of public school facilities, as determined by an assessment of—

(i) the current and historic ability of the agency to raise funds for construction, renovation, modernization, and major repair projects for schools, including the ability of the agency to raise funds through imposition of property taxes,

(ii) whether the agency has been able to issue bonds to fund construction projects, including—

(I) qualified zone academy bonds under section 54E of the Internal Revenue Code of 1986, and

(II) school infrastructure bonds under section 54BB of the Internal Revenue Code of 1986, and

(iii) the bond rating of the agency,

(B) the demographic composition of the student population served by the agency, disaggregated by—

(i) race,

(ii) the number and percentage of students counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)), and

(iii) the number and percentage of students who are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.),

(C) the population density of the geographic area served by the agency,

(D) a description of the projects carried out with funds received from school infrastructure bonds,

(E) a description of the demonstrable or expected benefits of the projects, and

(F) the estimated number of jobs created by the projects.

(3) The total dollar amount of all funds received by local educational agencies from school infrastructure bonds.

(4) Any other factors that the Secretary of the Treasury determines to be appropriate.

(c) INFORMATION COLLECTION.—A State or local educational agency that receives an allocation under section 54E(b)(2) or 54BB(g) of the Internal Revenue Code of 1986 shall—

(1) annually compile the information necessary for the Secretary of the Treasury to determine the elements described in subsection (b), and

(2) report the information to the Secretary of the Treasury at such time and in such manner as the Secretary of the Treasury may require.

(d) SECRETARY OF THE TREASURY.—For purposes of this section, the term “Secretary of the Treasury” includes the Secretary’s delegate.

## TITLE III—USES OF FUNDS

### SEC. 301. ALLOWABLE USES OF FUNDS.

(a) IN GENERAL.—Except as provided in section 302, a local educational agency that receives covered funds may use such funds to—

(1) develop, maintain, and update (as necessary) the facilities master plan required under section 103(f);

(2) construct, modernize, renovate, or retrofit public school facilities, which may include seismic retrofitting for schools vulnerable to seismic natural disasters;

(3) decarbonize public school facilities through the adoption of all-electric space and water heating systems and cooking equipment, including other efficiency improvements and on-site renewable energy installation;

(4) carry out major repairs of public school facilities, including deferred maintenance projects;

(5) install furniture or fixtures with at least a 10-year life in public school facilities;

(6) construct new public school facilities;

(7) acquire and prepare sites on which new public school facilities will be constructed;

(8) extend the life of basic systems and components of public school facilities;

(9) ensure current or anticipated enrollment does not exceed the physical and instructional capacity of public school facilities;

(10) ensure the building envelopes and interiors of public school facilities protect occupants from natural elements and human threats, and are structurally sound and secure;

(11) compose building design plans that strengthen the safety and security on school premises by utilizing design elements, principles, and technology that—

(A) guarantee layers of security throughout the school premises; and

(B) uphold the aesthetics of the school premises as a learning and teaching environment;

(12) improve energy and water efficiency to lower the costs of energy and water consumption in public school facilities;

(13) improve indoor air quality in public school facilities;

(14) reduce or eliminate the presence of—

(A) toxic substances, including mercury, radon, PCBs, lead, per- and polyfluoroalkyl substances, and asbestos;

(B) mold and mildew; or

(C) rodents and pests;

(15) ensure the safety of drinking water at the tap and water used for meal preparation in public school facilities, which may include testing of the potability of water at the tap for the presence of lead and other contaminants, including per- and polyfluoroalkyl substances;

(16) bring public school facilities into compliance with applicable fire, health, and safety codes;

(17) make public school facilities accessible to people with disabilities through compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(18) provide instructional program space improvements for programs relating to early learning (including early learning programs operated by partners of the agency), special education, science, technology, career and technical education, physical education, music, the arts, and literacy (including library programs);

(19) improving the public school facilities of magnet schools, or other instructional programs, designed to increase student diversity and decrease racial or socioeconomic isolation;

(20) increase the use of public school facilities for the purpose of community-based partnerships that provide students with academic, health, and social services;

(21) ensure the health of students and staff during the construction or modernization of public school facilities; or

(22) reduce or eliminate excessive classroom noise due to activities allowable under this section.

(b) ALLOWANCE FOR DIGITAL LEARNING.—A local educational agency may use covered funds to leverage existing public programs or public-private partnerships to expand access to high-speed broadband sufficient for digital learning.

**SEC. 302. PROHIBITED USES.**

(a) **IN GENERAL.**—A local educational agency that receives covered funds may not use such funds for—

- (1) payment of routine and predictable maintenance costs and minor repairs;
- (2) any facility that is primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;
- (3) vehicles; or
- (4) central offices, operation centers, or other facilities that are not primarily used to educate students.

(b) **ADDITIONAL PROHIBITIONS RELATING TO CHARTER SCHOOLS.**—No covered funds may be used—

- (1) for the facilities of a public charter school that is operated or managed by a for-profit entity; or
- (2) for the facilities of a public charter school if—
  - (A) the school leases the facilities from an individual or for-profit entity; and
  - (B) such individual, or an individual with a direct or indirect financial interest in such entity, has a management or governance role in such school.

**SEC. 303. REQUIREMENTS FOR HAZARD-RESISTANCE AND ENERGY AND WATER CONSERVATION.**

A local educational agency that receives covered funds shall ensure that any new construction, modernization, or renovation project carried out with such funds meets or exceeds the requirements of the following:

- (1) Requirements for such projects set forth in the most recent published edition of a nationally recognized, consensus-based model building code.
- (2) Requirements for such projects set forth in the most recent published edition of a nationally recognized, consensus-based model energy conservation code.
- (3) Performance criteria under the WaterSense program, established under section 324B of the Energy Policy and Conservation Act (42 U.S.C. 6294b), applicable to such projects within a nationally recognized, consensus-based model code.
- (4) Indoor environmental air quality requirements applicable to such projects as set forth in the most recent published edition of a nationally recognized, consensus-based code or standard.

**SEC. 304. GREEN PRACTICES.**

(a) **IN GENERAL.**—A local educational agency that uses covered funds for a new construction project shall ensure that such project for new construction is certified, verified, or consistent with the applicable provisions of—

- (1) the United States Green Building Council Leadership in Energy and Environmental Design green building rating standard (commonly known as the “LEED Green Building Rating System”);
- (2) the Living Building Challenge developed by the International Living Future Institute;
- (3) a green building rating program developed by the Collaborative for High-Performance Schools (commonly known as “CHPS”) that is CHPS-verified;
- (4) the Green Building Initiative Green Globes rating system; or
- (5) a program that—
  - (A) has standards that are equivalent to or more stringent than the standards of a program described in paragraphs (1) through (4);
  - (B) is adopted by the State or another jurisdiction with authority over the agency; and
  - (C) includes a verifiable method to demonstrate compliance with such program.

**SEC. 305. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED PRODUCTS.**

(a) **IN GENERAL.**—A local educational agency that receives covered funds shall ensure that any iron, steel, and manufactured products used in projects carried out with such funds are produced in the United States.

(b) **WAIVER AUTHORITY.**—

- (1) **IN GENERAL.**—The Secretary may waive the requirement of subsection (a) if the Secretary determines that—
  - (A) applying subsection (a) would be inconsistent with the public interest;
  - (B) iron, steel, and manufactured products produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; or
  - (C) using iron, steel, and manufactured products produced in the United States will increase the cost of the overall project by more than 25 percent.

- (2) PUBLICATION.—Before issuing a waiver under paragraph (1), the Secretary shall publish in the Federal Register a detailed written explanation of the waiver determination.
- (c) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with the obligations of the United States under international agreements.
- (d) DEFINITIONS.—In this section:
- (1) PRODUCED IN THE UNITED STATES.—The term “produced in the United States” means the following:
- (A) When used with respect to a manufactured product, the product was manufactured in the United States and the cost of the components of such product that were mined, produced, or manufactured in the United States exceeds 60 percent of the total cost of all components of the product.
- (B) When used with respect to iron or steel products, or an individual component of a manufactured product, all manufacturing processes for such iron or steel products or components, from the initial melting stage through the application of coatings, occurred in the United States, except that the term does not include—
- (i) steel or iron material or products manufactured abroad from semi-finished steel or iron from the United States; and
- (ii) steel or iron material or products manufactured in the United States from semi-finished steel or iron of foreign origin.
- (2) MANUFACTURED PRODUCT.—The term “manufactured product” means any construction material or end product (as such terms are defined in part 25.003 of the Federal Acquisition Regulation) that is not an iron or steel product, including—
- (A) electrical components; and
- (B) nonferrous building materials, including, aluminum and polyvinylchloride (PVC), glass, fiber optics, plastic, wood, masonry, rubber, manufactured stone, any other nonferrous metals, and any unmanufactured construction material.

## TITLE IV—REPORTS AND OTHER MATTERS

### SEC. 401. COMPTROLLER GENERAL REPORT.

- (a) IN GENERAL.—Not later than 2 years after the date on which the majority of States receiving allocations under section 102 have made subgrants to local educational agencies under section 103, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the projects carried out with covered funds.
- (b) ELEMENTS.—The report under subsection (a) shall include an assessment of—
- (1) State activities, including—
- (A) criteria used by each State to determine high-need students and facilities for purposes of the projects carried out with covered funds; and
- (B) whether the State issued new regulations to ensure the health and safety of students and staff during construction or renovation projects or to ensure safe, healthy, and high-performing school buildings;
- (2) the types of projects carried out with covered funds, including—
- (A) the square footage of the improvements made with covered funds;
- (B) the total cost of each such project; and
- (C) the costs of the project disaggregated by the costs for planning, design, construction, site purchase, and improvements;
- (3) the geographic distribution of the projects;
- (4) an assessment of the impact of selected projects (as identified by the Secretary) on the health and safety of school staff and students; and
- (5) how the Secretary or States could make covered funds more accessible—
- (A) to schools with the highest numbers and percentages of students counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); and
- (B) to schools with fiscal challenges in raising capital for school infrastructure projects.
- (c) UPDATES.—The Comptroller General shall update and resubmit the report under this section to the appropriate congressional committees—
- (1) on a date that is between 5 and 6 years after the date of the submittal of the first report under this section; and
- (2) on a date that is between 10 and 11 years after the date of the submittal of such first report.



**SEC. 402. STUDY AND REPORT ON PHYSICAL CONDITION OF PUBLIC SCHOOLS.**

(a) **STUDY AND REPORT.**—Not less frequently than once in each 5-year period beginning after the date of the enactment of this Act, the Secretary, acting through the Director of the Institute of Education Sciences, shall—

(1) carry out a comprehensive study of the physical conditions of all public schools in each State and outlying area; and

(2) submit a report to the appropriate congressional committees that includes the results of the study.

(b) **ELEMENTS.**—Each study and report under subsection (a) shall include—

(1) an assessment of—

(A) the effect of school facility conditions on student and staff health and safety;

(B) the effect of school facility conditions on student academic outcomes;

(C) the condition of school facilities, set forth separately by geographic region;

(D) the condition of school facilities for economically disadvantaged students as well as students from major racial and ethnic subgroups;

(E) the accessibility of school facilities for students and staff with disabilities;

(F) the prevalence of school facilities at which student enrollment exceeds the physical and instructional capacity of the facility and the effect of such excess enrollment on instructional quality and delivery of school wrap-around services;

(G) the condition of school facilities affected by natural disasters;

(H) the effect that projects carried out with covered funds have on the communities in which such projects are conducted, including the vitality, jobs, population, and economy of such communities; and

(I) the ability of building envelopes and interiors of public school facilities to protect occupants from natural elements and human threats;

(2) an explanation of any differences observed with respect to the factors described in subparagraphs (A) through (I) of paragraph (1); and

(3) a cost estimate for bringing school facilities to a state of good repair, as determined by the Secretary.

**SEC. 403. OFFICE OF SCHOOL INFRASTRUCTURE AND SUSTAINABILITY.**

(a) **ESTABLISHMENT.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish within the Department of Education an office to be known as the “Office of School Infrastructure and Sustainability” (referred to in this section as the “Office”).

(b) **HEAD OF OFFICE.**—The head of the Office shall be an individual designated by the Secretary.

(c) **DUTIES.**—The duties of the Office shall be—

(1) to advise the Secretary on State plans under section 102;

(2) to serve as a liaison with other departments and agencies of the Federal Government on matters relating to public school facilities, including the Department of Energy, the Department of Health and Human Services, the Department of the Treasury, the Federal Emergency Management Agency, and the Environmental Protection Agency;

(3) to ensure the Department of Education is prepared to meet the requirements of this Act in a timely manner; and

(4) to manage such other programs or initiatives affecting public school facilities as the Secretary determines appropriate.

**SEC. 404. DEVELOPMENT OF DATA STANDARDS.**

(a) **DATA STANDARDS.**—Not later than 120 days after the date of the enactment of this Act, the Secretary, in consultation with the officials described in subsection (b), shall—

(1) identify the data that States should collect and include in the databases developed under section 102(a)(2)(B);

(2) develop standards for the measurement of such data; and

(3) issue guidance to States concerning the collection and measurement of such data.

(b) **OFFICIALS.**—The officials described in this subsection are—

(1) the Administrator of the Environmental Protection Agency;

(2) the Secretary of Energy;

(3) the Director of the Centers for Disease Control and Prevention; and

(4) the Director of the National Institute for Occupational Safety and Health.

**SEC. 405. INFORMATION CLEARINGHOUSE.**

(a) **IN GENERAL.**—Not later than 120 days after the date of the enactment of this Act, the Secretary shall establish a clearinghouse to disseminate information on Federal programs and financing mechanisms that may be used to assist schools in initiating, developing, and financing—

- (1) energy efficiency projects;
- (2) distributed generation projects; and
- (3) energy retrofitting projects.

(b) **ELEMENTS.**—In carrying out subsection (a), the Secretary shall—

- (1) consult with the officials described in section 404(b) to develop a list of Federal programs and financing mechanisms to be included in the clearinghouse; and
- (2) coordinate with such officials to develop a collaborative education and outreach effort to streamline communications and promote the Federal programs and financing mechanisms included in the clearinghouse, which may include the development and maintenance of a single online resource that includes contact information for relevant technical assistance that may be used by States, outlying areas, local educational agencies, and Bureau-funded schools effectively access and use such Federal programs and financing mechanisms.

**SEC. 406. SENSE OF CONGRESS ON OPPORTUNITY ZONES.**

(a) **FINDINGS.**—The Congress finds as follows:

- (1) Opportunity Zones were championed by prominent leaders of both parties as an innovative way to tackle longstanding challenges.
- (2) As of December 2018, 8,763 low-income communities had been designated as Opportunity Zones, representing all 50 States, the District of Columbia, Puerto Rico, the United States Virgin Islands, and American Samoa.
- (3) Schools are integral parts of communities, and a key part of communities' economic and workforce development efforts could be modernizing school facilities.

(b) **SENSE OF CONGRESS.**—It is the sense of the Congress that opportunity zones, when combined with public infrastructure investment, can provide an innovative approach to capital financing that has the potential to unleash creativity and help local communities rebuild schools, rebuild economics, and get people back to work.

## **TITLE V—IMPACT AID CONSTRUCTION**

**SEC. 501. TEMPORARY INCREASE IN FUNDING FOR IMPACT AID CONSTRUCTION.**

Section 7014(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7714(d)) is amended to read as follows:

“(d) **CONSTRUCTION.**—For the purpose of carrying out section 7007, there are authorized to be appropriated \$100,000,000 for each of fiscal years 2023 through 2027.”.

## **TITLE VI—ASSISTANCE FOR REPAIR OF SCHOOL FOUNDATIONS AFFECTED BY PYRRHOTITE**

**SEC. 601. ALLOCATIONS TO STATES.**

(a) **IN GENERAL.**—Beginning not later than 180 days after the date of the enactment of this Act, the Secretary shall carry out a program under which the Secretary makes allocations to States to pay the Federal share of the costs of making grants to local educational agencies under section 602.

(b) **WEBSITE.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish, on a publicly accessible website of the Department of Education, instructions describing how a State may receive an allocation under this section.

**SEC. 602. GRANTS TO LOCAL EDUCATIONAL AGENCIES.**

(a) **IN GENERAL.**—From the amounts allocated to a State under section 601(a) and contributed by the State under subsection (e)(2), the State shall award grants to local educational agencies—

- (1) to pay the future costs of repairing concrete school foundations damaged by the presence of pyrrhotite; or
- (2) to reimburse such agencies for costs incurred by the agencies in making such repairs in the five-year period preceding the date of enactment of this Act.

## (b) LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—

(1) ELIGIBILITY FOR GRANTS FOR FUTURE REPAIRS.—To be eligible to receive a grant under subsection (a)(1), a local educational agency shall—

(A) with respect to each school for which the agency seeks to use grant funds, demonstrate to the State that—

- (i) the school is a pyrrhotite-affected school; and
- (ii) any laboratory tests, core tests, and visual inspections of the school's foundation used to determine that the school is a pyrrhotite-affected school were conducted—

(I) by a professional engineer licensed in the State in which the school is located; and

(II) in accordance with applicable State standards or standards approved by any independent, nonprofit, or private entity authorized by the State to oversee construction, testing, or financial relief efforts for damaged building foundations; and

(B) provide an assurance that—

- (i) the local educational agency will use the grant only for the allowable uses described in subsection (f)(1); and
- (ii) all work funded with the grant will be conducted by a qualified contractor or architect licensed in the State.

(2) ELIGIBILITY FOR REIMBURSEMENT GRANTS.—To be eligible to receive a grant under subsection (a)(2), a local educational agency shall demonstrate that it met the requirements of paragraph (1) at the time it carried out the project for which the agency seeks reimbursement.

## (c) APPLICATION.—

(1) IN GENERAL.—A local educational agency that seeks a grant under this section shall submit to the State an application at such time, in such manner, and containing such information as the State may require, which upon approval by the State under subsection (d)(1)(A), the State shall submit to the Secretary for approval under subsection (d)(1)(B).

(2) CONTENTS.—At minimum, each application shall include—

(A) information and documentation sufficient to enable the State to determine if the local educational agency meets the eligibility criteria under subsection (b);

(B) in the case of an agency seeking a grant under subsection (a)(1), an estimate of the costs of carrying out the activities described in subsection (f);

(C) in the case of an agency seeking a grant under subsection (a)(2)—

(i) an itemized explanation of—

(I) the costs incurred by the agency in carrying out any activities described subsection (f);

(II) any amounts contributed from other Federal, State, local, or private sources for such activities; and

(ii) the amount for which the local educational agency seeks reimbursement; and

(D) the percentage of any costs described in subparagraph (B) or (C) that are covered by an insurance policy.

## (d) APPROVAL AND DISBURSEMENT.—

## (1) APPROVAL.—

(A) STATE.—The State shall approve the application of each local educational agency for submission to the Secretary that—

- (i) submits a complete and correct application under subsection (c); and
- (ii) meets the criteria for eligibility under subsection (b).

(B) SECRETARY.—Not later than 60 days after receiving an application of a local educational agency submitted by a State under subsection (c)(1), the Secretary shall—

- (i) approve such application, in a case in which the Secretary determines that such application meets the requirements of subparagraph (A); or
- (ii) deny such application, in the case of an application that does not meet such requirements.

## (2) DISBURSEMENT.—

(A) ALLOCATION.—The Secretary shall disburse an allocation to a State not later than 60 days after the date on which the Secretary approves an application under paragraph (1)(B).

(B) GRANT.—The State shall disburse grant funds to a local educational agency not later than 60 days after the date on which the State receives an allocation under subparagraph (A).

(e) **FEDERAL AND STATE SHARE.—**

(1) **FEDERAL SHARE.**—The Federal share of each grant under this section shall be an amount that is not more than 50 percent of the total cost of the project for which the grant is awarded.

(2) **STATE SHARE.—**

(A) **IN GENERAL.**—Subject to subparagraph (B), the State share of each grant under this section shall be an amount that is not less than 40 percent of the total cost of the project for which the grant is awarded, which the State shall contribute from non-Federal sources.

(B) **SPECIAL RULE FOR REIMBURSEMENT GRANTS.**—In the case of a reimbursement grant made to a local educational agency under subsection (a)(2), a State shall be treated as meeting the requirement of subparagraph (A) if the State demonstrates that it contributed, from non-Federal sources, not less than 40 percent of the total cost of the project for which the reimbursement grant is awarded.

(f) **USES OF FUNDS.—**

(1) **ALLOWABLE USES OF FUNDS.**—A local educational agency that receives a grant under this section shall use such grant only for costs associated with—

(A) the repair or replacement of the concrete foundation or other affected areas of a pyrrhotite-affected school in the jurisdiction of such agency to the extent necessary—

(i) to restore the structural integrity of the school to the safety and health standards established by the professional licensed engineer or architect associated with the project; and

(ii) to restore the school to the condition it was in before the school's foundation was damaged due to the presence of pyrrhotite; and

(B) engineering reports, architectural design, core tests, and other activities directly related to the repair or replacement project.

(2) **PROHIBITED USES OF FUNDS.**—A local educational agency that receives a grant under this section may not use the grant for any costs associated with—

(A) work done to outbuildings, sheds, or barns, swimming pools (whether in-ground or above-ground), playgrounds or ballfields, or any ponds or water features;

(B) the purchase of items not directly associated with the repair or replacement of the school building or its systems, including items such as desks, chairs, electronics, sports equipment, or other school supplies; or

(C) any other activities not described in paragraph (1).

(g) **LIMITATION.**—A local educational agency may not, for the same project, receive a grant under both—

(1) this section; and

(2) title I.

**SEC. 603. DEFINITIONS.**

In this title:

(1) **PYRRHOTITE-AFFECTED SCHOOL.**—The term “pyrrhotite-affected school” means an elementary school or a secondary school that meets the following criteria:

(A) The school has a concrete foundation.

(B) Pyrrhotite is present in the school's concrete foundation, as demonstrated by a petrographic or other type of laboratory core analysis or core inspection.

(C) A visual inspection of the school's concrete foundation indicates that the presence of pyrrhotite is causing the foundation to deteriorate at an unsafe rate.

(D) A qualified engineer determined that the deterioration of the school's foundation, due to the presence of pyrrhotite—

(i) caused the school to become structurally unsound; or

(ii) will result in the school becoming structurally unsound within the next five years.

(2) **QUALIFIED CONTRACTOR.**—The term “qualified contractor” means a contractor who is qualified under State law, or approved by any State agency or other State-sanctioned independent or nonprofit entity, to repair or replace residential or commercial building foundations that are deteriorating due to the presence of pyrrhotite.

**SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 2023 and each fiscal year thereafter.

## PURPOSE AND SUMMARY

The purpose of H.R. 604, the *Rebuild America's Schools Act of 2022* is to support the efforts of states and local educational agencies (LEAs) to achieve equity in school facilities infrastructure, assist states in their role in creating safe and healthy schools, and improve regulation of, and data collection on, the condition of public school facilities and the impact of such conditions on health and safety.

The *Rebuild America's Schools Act of 2022*, as amended, would authorize a \$130 billion federal investment in public school construction and modernization, creating more than two million good-paying jobs<sup>1</sup> over 10 years by addressing critical physical infrastructure needs in communities nationwide.

Title I of the bill would authorize a grant program that targets federal support to high-poverty LEAs with public school facilities that pose health and safety risks to students and staff. It allocates to each state the same proportion of funds that the state receives under title I, part A of the *Elementary and Secondary Education Act of 1965* (ESEA Title I) and provides reservations of funds for the outlying areas and the Bureau of Indian Education (BIE). States must distribute 90 percent of such allocation to high-poverty LEAs based on their relative need to improve school facilities, while ensuring the distribution of subgrants is also geographically equitable within the state. LEAs receiving a subgrant are required to submit to their state a comprehensive 10-year facilities master plan. States must provide a 10 percent match and promulgate regulations to ensure healthy, safe, and high-performing school buildings both during and after construction. The bill also directs participating states to develop a comprehensive database on the condition of public school facilities, a data set that does not currently exist and will provide comprehensive, non-partisan insight on the state of America's public schools.

Title II proposes \$30 billion in tax-free bond authority to states, again allocated in proportion to state ESEA Title I program funds. As title II is not within the jurisdiction of the Committee, it is not discussed at length in this report.

Title III enumerates allowable uses of the grant and bond funds, prohibiting the funds from being spent on minor repairs, predictable or routine maintenance, vehicles, or athletic facilities for which admission is charged to the public. It also prohibits the funds from being spent on the facilities of a for-profit charter school or a charter school that leases its facilities from a for-profit entity with a financial interest in the school. Provisions in title III require the use of green practices in new construction, and, with a few exceptions, require construction projects to use American iron, steel, and manufactured products.

Title IV of the bill directs the Institute of Educational Sciences (IES) to carry out a national study on public school facilities and the impact of such facilities on students and staff. It also directs the Comptroller General to conduct a Government Accountability

<sup>1</sup>JOSH BIVENS & HUNTER BLAIR, ECONOMIC POLICY INSTITUTE A PUBLIC INVESTMENT AGENDA THAT DELIVERS THE GOODS FOR AMERICAN WORKERS NEEDS TO BE LONG-LIVED, BROAD, AND SUBJECT TO DEMOCRATIC OVERSIGHT. 8 (2016) available at <https://www.epi.org/files/pdf/117041.pdf>. (calculating that each \$1 billion spent on construction creates 17,785 jobs).

Office (GAO) audit on the condition of public school facilities and to produce recommendations to maximize the ability of under-resourced LEAs to access funds authorized under the bill. Title IV also directs the Secretary of Education (Secretary) to work across agencies to identify the data states should collect on the condition of their school facilities and develop standards and guidance to direct such data collection and measurement. It also directs the Secretary to establish an information clearinghouse to disseminate information on school facilities and an Office of School Infrastructure and Sustainability to facilitate the grant program.

Title V of the bill authorizes five years of increased funding for Impact Aid school construction. Finally, title VI authorizes federal grants to support states impacted by the presence of pyrrhotite, a ferrous mineral found in the concrete of certain regions of the United States causing significant damage to facilities, including public schools. Under the program, states could apply for grants in support of construction to restore the condition of any public school facility with a foundation compromised due to the presence of pyrrhotite. Funds under title V could also be used by states to reimburse LEAs for past construction on crumbling school foundations due to pyrrhotite impact. Grants distributed under title V require a state match of 40 percent of the project's total cost and are prohibited from covering more than 50 percent of the project's total cost.

A diverse array of stakeholders have called upon Congress to pass the *Rebuild America's Schools Act of 2022* to address our nation's crumbling education infrastructure. Such stakeholders include educators, parents, school administrators, laborers, experts in child development, health and safety experts, civil rights advocates, and more.<sup>2</sup> As of the filing of this report, supporters of H.R. 604 include 21st Century School Fund, The School Superintendents Association, American Federation of School Administrators, American Federation of Teachers, Association of Education Service Agencies, BlueGreen Alliance, Build America's School Infrastructure Coalition, Campaign for Environmental Literacy, Center for Green Schools at USGB, Children & Nature Network, Children's Defense Fund-Ohio, Communication Workers of America, Congleton, Morris & Thorpe Engineers, Inc., Cooperative Strategies, Education Market Association, Green Building Initiative, Green Schools National Network, Green Schoolyards America, Healthy Schools Campaign, International WELL Building Institute, International Union of Bricklayers and Allied Craftworkers, KABOOM!, NAACP Legal Defense Fund, National Association for Music Education, National Association of Federally Impacted Schools, National Association of Secondary School Principals, National Council on School Facilities, National Education Association, National PTA, National Rural Education Advocacy Consortium, National Summer Learning Association, National Wildlife Federation, North American Association for Environmental Education, SEI: Building Leaders for a Resilient World, SMART California Sheet Metal Workers' Local 104, Southern Rural Black Women's Initiative, and Treves.

## COMMITTEE ACTION

## 110TH CONGRESS

On July 12, 2007, Rep. Ben Chandler (D-KY), with original cosponsors Rep. Dale Kildee (D-MI), and Chairman George Miller (D-CA), introduced H.R. 3021, the *21st Century High-Performing Public School Facilities Act*, a bill to direct the Secretary of Education to make grants and low-interest loans to LEAs for the construction, modernization, or repair of public kindergarten, elementary, and secondary educational facilities, and for other purposes.

On February 13, 2008, the Committee held a hearing in Washington, D.C. entitled “*Modern Public School Facilities: Investing in the Future.*” The purpose of the hearing was to highlight the poor quality of public school buildings throughout the United States, particularly in low-income areas, and the need for federal investment in public school buildings. Testifying before the full Committee on the first panel were: Representatives Chandler, Michael N. Castle (R-DE), Bob Etheridge (D-NC), David Loebsack (D-IA), Charles Boustany (R-LA), Darlene Hooley (D-OR), Steve King (R-IA) and Rush Holt (D-NJ). On the second panel, the Committee heard testimony from: Kathleen J. Moore, Director, School Facilities Planning Division, California Department of Education (Sacramento, California); Judi Caddick, Teacher, Memorial Junior High School, Illinois Education Association (Lansing, Illinois); Mary Cullinane, Director, Innovation and Business Development Team, Microsoft Corporation (New York, New York); Dr. Paula Vincent, Superintendent, Clear Creek Amana School District (Oxford, Iowa); Paul Vallas, Superintendent, Louisiana Recovery School District (New Orleans, Louisiana); Jim Waters, Director, Policy and Communications, Bluegrass Institute for Public Policy Solutions (Bowling Green, Kentucky); and Neal McCluskey, Associate Director, Center for Educational Freedom, CATO Institute (Washington, D.C.).

On April 30, 2008, the Committee considered H.R. 3021 in a legislative session, and reported the bill favorably, as amended, to the House of Representatives by a vote of 28–19. The House of Representatives passed H.R. 3021 on June 4, 2008, by a bipartisan vote of 250–164. The bill was messaged to the Senate and referred to the Senate Committee on Health, Education, Labor and Pensions. The Senate took no further action on the bill.

*Related legislative action*

On September 26, 2008, by a bipartisan vote of 265–158, the House passed H.R. 7110, the *Job Creation and Unemployment Relief Act of 2008*, introduced by Rep. David Obey (D-WI), Chairman of the Committee on Appropriations. H.R. 7110 appropriated \$3 billion for public school modernization, renovation and repair, modeled after the provisions in title I of H.R. 3021. The Senate took no further action on the bill.

## 111TH CONGRESS

On January 28, 2009, the House passed H.R. 1, the *American Recovery and Reinvestment Act (ARRA)*, introduced by Chairman Obey. H.R. 1 appropriated \$14 billion for public school modernization, renovation and repair, modeled after provisions in title I of

H.R. 3021 (110th Congress). On February 12, 2009, the House passed the Conference Report to H.R. 1. While the Conference Report did not include dedicated funds for public school modernization, renovation and repair, title XIV of the Conference Report authorized the State Fiscal Stabilization Fund, \$48.6 billion for states and LEAs, which included public school modernization, renovation, and repair (including modernization, renovation and repair that complies with a recognized green building standard) as authorized uses. The Conference Report also maintained provisions in H.R. 1 that authorized a multi-billion dollar qualified school construction bond authority for school construction and modernization. ARRA was signed into law by President Obama on February 17, 2009.

On April 30, 2009, Representative Chandler, Chairman Miller, and fifteen other members of the Committee<sup>3</sup> introduced H.R. 2187, the *21st Century Green High-Performing Public School Facilities Act*. This bill, which was substantively similar to H.R. 3021 (110th Congress), directed the Secretary of Education to make grants and low-interest loans to LEAs for the modernization, renovation, or repair of public early learning, kindergarten, elementary, and secondary educational facilities, and for other purposes.

On May 6, 2009, the Committee considered H.R. 2187 in a legislative session, and reported the bill favorably, as amended, to the House of Representatives by a vote of 31–14. The House of Representatives passed H.R. 2187 on May 14, 2009, by a bipartisan vote of 275–155. The bill was messaged to the Senate and referred to the Senate committee on Health, Education, Labor, and Pensions. The Senate took no further action on the bill.

#### 115TH CONGRESS

On May 17, 2017, the 63rd anniversary of the U.S. Supreme Court's landmark decision in *Brown v. Board of Education of Topeka*,<sup>4</sup> Ranking Member Bobby Scott (D–VA) and Rep. Donald Norcross (D–NJ) along with 57 other House colleagues (including nine Committee members<sup>5</sup>), introduced H.R. 2475, the *Rebuild America's Schools Act of 2017*. The bill was referred to the Committee, and Ranking Member Scott requested a legislative hearing on the state of public school facilities in a letter to Committee Chairwoman Virginia Foxx (R–NC).

On January 17, 2018, Ranking Member Scott and House Committee on Transportation and Infrastructure Ranking Member Peter DeFazio (D–OR) led 153 House colleagues in sending a letter to President Trump urging him to make federal investment in school construction a focal point of any federal infrastructure package considered for passage.

On October 23, 2018, Ranking Member Scott again wrote to Chairwoman Foxx urging her to hold a hearing on H.R. 2475 before the end of the 115th Congress. No hearing was held.

<sup>3</sup>Reps. Kildee, Loeb sack (D–IA), John Tierney (D–MA), Joe Courtney (D–CT), Phil Hare (D–IL), Holt, Rob Andrews (D–NJ), Raul Grijalva (D–AZ), Pedro Pierluisi (D–PR), Lynn Woolsey (D–CA), David Wu (D–OR), Paul Tonko (D–NY), Jared Polis (D–CO), Mazie Hirono (D–HI), and Kilili Sablan (D–MP).

<sup>4</sup>347 U.S. 483 (1954).

<sup>5</sup>Reps. Sablan, Adriano Espaillat (D–NY), Suzanne Bonamici (D–OR), Alma Adams (D–NC), Frederica Wilson (D–FL), Marcia Fudge (D–OH), Lisa Blunt Rochester (D–DE), Mark Takano (D–CA), and Mark DeSaulnier (D–CA).



## 116TH CONGRESS

On January 30, 2019, Chairman Scott along with Rep. Norcross and 151 other original co-sponsors (including all Democratic members of the Committee), introduced H.R. 865, the *Rebuild America's Schools Act of 2019*. The bill's authorization of a \$100 billion investment in public school facilities in the form of grants and bonds would leverage an additional \$7 billion in state funding for an overall investment of \$107 billion that would generate 1.9 million good-paying jobs over 10 years.

On February 12, 2019, the Committee held a hearing in Washington, D.C., entitled "*Underpaid Teachers and Crumbling Schools: How Underfunding Public Education Shortchanges America's Students*." The purpose of the hearing was to highlight the poor quality of public school infrastructure across the country, especially in low-income communities, and to inform Committee members on how recent cuts to public education, in combination with historic underfunding of public education, have resulted in LEAs that do not have the resources to provide a quality education to all students. Such underfunding contributes to an average gap of \$46 billion between what the U.S. spends on K–12 facilities every year and what should be spent according to building industry and best-practice standards.<sup>6</sup> Testifying before the Committee were Dr. Sharon Contreras, Superintendent, Guilford County Schools, North Carolina; Anna King, Board Member, National PTA, Oklahoma City, Oklahoma; Randi Weingarten, President, American Federation of Teachers, Washington, D.C.; and Dr. Ben Scafidi, Professor of Economics and Director, Education Economics Center, Kennesaw State University, Kennesaw, Georgia.

On February 26, 2019, the Committee considered H.R. 865 in legislative session, and reported the bill favorably, as amended, to the House of Representatives by a vote of 26 20.

On June 11, 2020, Rep. Peter Defazio (D OR) introduced H.R. 2, *The Moving Forward Act*, which provided over \$1.5 trillion in federal spending to support infrastructure across the country. On, July 1, 2020, the House passed H.R. 2 by a vote of 233–188. H.R. 865, *Rebuild America's Schools Act*, as reported out of Committee, was included in H.R. 2 in its entirety, as reported out of Committee with additional revisions to address the COVID–19 pandemic. Those revisions included:

- Increasing the authorization of funds for the grant program from \$70 billion to \$100 billion (\$20 billion per fiscal year (FY) from FY2020 to FY2024);
- Allowing states ten years to spend down grant funds (through FY2029);
- Allowing states ten years to make their total ten percent match contribution requirement through FY2029;
- Allowing states to contribute federal sources toward the match requirement in any fiscal year where program appropriations exceed \$7 billion;

<sup>6</sup>U.S. Green Building Council, 21st Century Schools Fund, & National Council on School Facilities, *The State of Our Schools: America's K–12 FACILITIES REPORT 26* (2016) available at <https://www.usgbc.org/articles/groundbreaking-schools-report-shows-systemic-inequity-statebystate-analysis-investment-amer>.

- Requiring the U.S. Department of Education (Department) to expedite allocation of FY2020 funds with assurance that states will comply with prioritizing schools that need retrofits for reopening (such as for HVAC) before state plans are submitted and approved;
- Requiring states, for FY2020 funds only, to prioritize subgrants to fund capital projects necessary to reopen buildings in line with Centers for Disease Control and Prevention (CDC) public health guidelines, with mention of HVAC needs and social distancing; and,
- Specifying that program funds may be used to create outdoor instructional spaces for social distancing and health purposes.

## 117TH CONGRESS

On January 28, 2021, Chairman Scott, Rep. Norcross and 145 other original co-sponsors (including the majority of Democratic members of the Committee), introduced H.R. 604, the *Reopen and Rebuild America's Schools Act of 2021*. The bill would invest \$100 billion in direct grants and \$30 billion in bond authority to help high-poverty school districts rebuild, repair, and modernize their public school facilities and would create over two million good paying jobs in the process.

On April 28, 2021, the Committee held a hearing entitled “*Building Back Better: Investing in Improving Schools, Creating Jobs, and Strengthening Families and our Economy*.” The purpose of the hearing was to examine the Biden Administration’s American Jobs Plan and American Families Plan, proposals which outlined a multi-year plan to transform the economy through infrastructure investment, job training, and strategies to address climate change. Among a variety of topics, the Committee heard testimony on the poor quality of public school infrastructure across the country and the need for increased federal investment to rebuild unsafe school buildings, particularly in areas of greatest need. Testifying before the Committee were: Mary W. Filardo, Founder and Executive Director, 21st Century School Fund, Washington, DC; Mr. Rasheed Malik, M.P.P., Senior Policy Analyst, Early Childhood Policy, Center for American Progress, Arlington, VA; Mr. Mark Mitsui, President, Portland Community College, Portland, OR; Mr. Brian Riedl, Senior Fellow in Budget, Tax, and Economics, The Manhattan Institute, Alexandria, VA; Mr. Neal McCluskey, Ph.D., Director, Center for Educational Freedom, Cato Institute, Washington, DC; Mr. Bob Lanter, Executive Director, California Workforce Association, Sacramento, CA.

On May 18, 2022, the Committee considered H.R. 604 in legislative session and reported the bill favorably, as amended, to the House of Representatives by a vote of 27–19. The Committee considered and adopted the following amendments to H.R. 604:

- Rep. Norcross offered a manager’s amendment, adopted by voice vote, which made several improvements to H.R. 604, including:
  - Changing the title of the bill to “*the Rebuild America’s Schools Act of 2022*”;
  - Clarifying that school facilities includes the surrounding grounds;

- Clarifying that the term “zero energy school” means a school that uses an equal amount of energy (or less) than it generates;
- Increasing the state reservation from 1 percent of grant funds to 5 percent to ensure states have capacity to carry out the required activities;
- Adding electrical panels, skylights, cooking equipment and major appliances, energy management control systems, and any improvements needed to support energy and water efficiency, resilience, and climate mitigation to the state inventory of school facility conditions;
- Requiring states to update their facilities inventory every three years instead of two years;
- Requiring states to include a plan to increase net zero schools in the state, rather than providing the option to include net zero school planning;
- Requiring that state education agency (SEA) plans include a description of how the SEA will use funds to increase student diversity and decrease racial and socioeconomic isolation of students attending schools in LEAs that receive a grant;
- Clarifying that LEA plans should include explanations of how LEAs will use funds to improve school conditions for both the health and safety of staff and students, and student learning and equity; Additionally, LEA plans must explain how funds will improve school building energy and water efficiency, resilience, and climate mitigation;
- Clarifying that LEA applications should also include an explanation of how the LEA will increase the number of certified small, woman-owned, minority-owned or veteran-owned businesses it contracts with for construction projects;
- Specifying that schools may use funds to decarbonize through electrification and on-site renewable energy installation;
- Including per- and polyfluoroalkyl substances (PFAS) in the list of toxins LEAs can use bill funds to test and eliminate;
- Specifying that LEAs may use funds to improve the public school facilities of magnet schools or other programs designed to increase student diversity and decrease racial or socioeconomic isolation;
- Clarifying that indoor air quality requirements adopted by an LEA must meet a nationally-published or recognized code or standard;
- Strengthening provisions related to green construction practices by requiring LEAs to determine that all new construction are certified, verified or consistent with the standards previously listed in the bill (LEED, Living Building Challenge, and CHPs) and adding a new standard system, the Green Building Initiatives Green Globes system; and,
- Adding a new section which directs the Secretary to establish an Office of School Infrastructure and Sustain-

ability within 90 days of enactment to ensure the Department of Education can implement RASA.

The Committee also considered the following amendments:

- Rep. Michelle Steel (R-CA) offered an amendment to require the Department to conduct a report on the impact the bill would have on the cost and availability of construction supplies and to prohibit expenditures of funds under the bill unless such report shows that the bill would not increase costs or worsen supply chain shortages. The amendment was defeated on a recorded vote of 26–19.
- Rep. Lisa McClain (R-MI) offered an amendment to strike language requiring states to give priority in the first year of the program to school districts that plan to use funds to facilitate social distancing, improve ventilation, and take other steps consistent with CDC guidance. The amendment would also strike similar language from the facilities database states are required to develop and maintain under the bill. The amendment was defeated on a recorded vote of 26–19.
- Rep. Glenn Grothman (R-WI) offered an amendment to require school districts to ensure that all employees, and the employees of contractors and subcontractors paid with funds under the bill are legally authorized to work in the United States. The amendment was defeated on a recorded vote of 26–18.
- Rep. Bob Good (R-VA) offered an amendment to prohibit school districts from receiving grant funds if they serve a sanctuary jurisdiction. The amendment was defeated on a recorded vote of 27–19.
- Rep. Christopher Jacobs (R-NY) offered an amendment to prohibit school districts from receiving a grant under the bill if they have not expended all funds allocated under the Elementary and Secondary School Emergency Relief (ESSER) fund, as appropriated under the *Coronavirus Aid, Relief, and Economic Security Act*, the *Coronavirus Response and Relief Supplemental Appropriations Act of 2021* (CRRSA), and the American Rescue Plan Act (ARP). The amendment was defeated on a recorded vote of 27–19.

#### COMMITTEE VIEWS

The federal government has played a pivotal role over the last 75 years in making our nation's inherently inequitable public education system more equitable. During this same period, the federal government has periodically provided funds to states and localities for school construction, both to improve equity of educational opportunity and to promote economic stimulus. H.R. 604, the *Rebuild America's Schools Act of 2022*, is an opportunity to reaffirm the federal government's position at the nexus of these two roles. If passed and funded, the bill would provide resources to ensure that all public school students have an opportunity to learn in a safe, healthy, and high-quality school facility, while at the same time creating almost two million jobs.

*H.R. 604 addresses persistent inequity in public education facilities*

Compulsory public education in America proliferated during an era of *de jure* segregation. *Plessy v. Ferguson*<sup>7</sup> sanctioned the maintenance of “separate but equal” public facilities in 1896, a sanction applied in the following decades to the then-emerging public school system. While the Supreme Court in *Brown v. Board of Education of Topeka* rightfully concluded that racially segregated schools inherently cannot be equal,<sup>8</sup> the notion that Black and white public school facilities were ever substantially equal was a legal fiction. A pre-Brown report from the American Council on Education in 1941 describes the state of a typical Black schoolhouse in Alabama:

It is in a dilapidated building, once whitewashed, standing in a rocky field unfit for cultivation. Dust-covered weeds spread a carpet all around, except for an uneven, bare area on one side that looks like a ball field. Behind the school is a small building with a broken, sagging door. As we approach, a nervous, middle-aged woman comes to the door of the school. She greets us in a discouraged voice marked by a speech impediment. Escorted inside, we observe that the broken benches are crowded to three times their normal capacity. Only a few battered books are in sight, and we look in vain for maps or charts. We learn that four grades are assembled here.<sup>9</sup>

Ten years after *Brown*, many school districts across the South had failed to fully integrate, leaving many students stuck in the same inferior school buildings, and in some cases no school buildings whatsoever.<sup>10</sup> Recognizing a constitutional duty to remedy inequality and inequity, President Lyndon Johnson and Congress solidified the federal role in public education as an arbiter of equity, first with the *Civil Rights Act of 1964*,<sup>11</sup> and subsequently with the *Elementary and Secondary Education Act of 1965* (ESEA).<sup>12</sup> The *Civil Rights Act of 1964* gave the federal government the legal tools to realize the promise of *Brown*. The law gave the federal government the power to enforce desegregation plans in local school districts under threat of federal sanction, but also authorized grants to support desegregation in communities that took voluntary action.<sup>13</sup> ESEA sought to close opportunity and achievement gaps in public education through grants which targeted resources and services to communities with high concentrations of poverty. This poverty fueled low-quality schools and school buildings due to inequitable public education financing systems,<sup>14</sup> many of which still persist. Since most communities fund their public school systems via

<sup>7</sup> 163 U.S. 537 (1896).

<sup>8</sup> *Brown*, 347 U.S. at 495.

<sup>9</sup> PETER IRONS, JIM CROW’S CHILDREN 34 (1st ed. 2002).

<sup>10</sup> E.g., CHARLES OGLETREE, ALL DELIBERATE SPEED: REFLECTIONS ON THE FIRST HALF-CENTURY OF BROWN V. BOARD OF EDUCATION Ch. 8 (“In fact, the southern segregated school system remained almost completely segregated for a full decade after *Brown*. By 1964, only one-fiftieth of all southern Black children attended integrated schools.”).

<sup>11</sup> Pub. L. 88–352, 78 Stat. 241 (codified as amended at 42 U.S.C. § 2000a et seq. (2012)).

<sup>12</sup> Pub. L. 89–10, 79 Stat. 27 (codified as amended at 20 U.S.C. § 6301 (2012)).

<sup>13</sup> 42 U.S.C. § 2000c (2012).

<sup>14</sup> E.g., Jeff Raikes & Linda Darling-Hammond, *Money Matters: Why Our Education Funding systems Are Derailing the American Dream*, LPI BLOG (Feb. 18, 2019), <https://learningpolicyinstitute.org/blog/why-our-education-funding-systems-are-derailing-american-dream>.

property taxes,<sup>15</sup> wealthier communities with higher property tax bases invariably are able to provide more resources for their educational facilities. Communities surrounding schools continue to be largely homogenized by wealth, or the significant lack thereof, due in large part to the impact of local, state, and federal housing policies intended to segregate white from nonwhite families. These policies continue to deny nonwhites access to asset accumulation and upward mobility, and have corresponding effects on the school buildings in these communities as well.<sup>16</sup>

Simply put, students in wealthy communities have better-resourced school infrastructure, which in turn prepares them better for long-term success. Students in poor communities disproportionately attend under-resourced schools. Studies show the highest poverty school districts in the country spend about \$1,000 (seven percent) less per student than the lowest poverty school districts.<sup>17</sup> Research also demonstrates that those disparities are significant along racial lines. School districts that serve mostly students of color receive about \$1,800 (13 percent) per pupil less than those serving mostly white students.<sup>18</sup> Students in these better-resourced schools have a better chance at graduating from high school and ultimately obtaining a college degree.<sup>19</sup> This is particularly troubling since students from low-income communities stand to benefit the most from graduating from high school and college. Students from families in the lowest quintile of income have a 90 percent chance of climbing the income ladder if they graduate from college.<sup>20</sup> To make it that far, they must first have a strong K–12 foundation, and sadly the deck is stacked against them.

States have proven unable to solve the problem of educational equity by themselves. While state-level public education financing formulas often send more funding to lower-wealth communities than to high-wealth communities, this distribution is not enough to close the resource gap between localities in most states. And, in some states, state financing formulas actually exacerbate the existing inequities.<sup>21</sup> The federal investment of ESEA sought to level the playing field and provide the equal opportunity promised by the Fourteenth Amendment, and the *Civil Rights Act of 1964* ensured

<sup>15</sup> Andrew Reschovsky, *The Future of U.S. Public School Revenue from the Property Tax 1* (LINCOLN INST. OF LAND POLICY, 2017) available at [https://www.lincolnst.edu/sites/default/files/pubfiles/future-us-public-school-revenue-policy-brief\\_0.pdf](https://www.lincolnst.edu/sites/default/files/pubfiles/future-us-public-school-revenue-policy-brief_0.pdf).

<sup>16</sup> Angela Hanks, et al., *Systematic Inequality: How America's Structural Racism Helped Create the Black-White Wealth Gap*, CTR. FOR AM. PROGRESS (Feb. 21, 2018, 9:03 am), <https://www.americanprogress.org/issues/race/reports/2018/02/21/447051/systematic-inequality/>; see generally RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017) (describing the legacy of local, state, and federal policy in creating segregated neighborhoods throughout the United States, including the systemic destruction of integrated neighborhoods, and the subsidization of suburbs which denied land sale to African-Americans through restrictive covenants).

<sup>17</sup> Ivy Morgan & Ary Amerikaner, *An Analysis of School Funding Equity Across the U.S. and Within Each State*, EDUC. TRUST (Feb. 27, 2018), <https://edtrust.org/resource/funding-gaps-2018/>.

<sup>18</sup> *Id.*

<sup>19</sup> Michael Mitchell et al., *Unkept Promises: State Cuts to Higher Education Threaten Access and Equity*, CTR. ON BUDG. & POL'Y PRIORITIES (Oct. 4, 2018), <https://www.cbpp.org/research/state-budget-and-tax/unkept-promises-state-cuts-to-higher-education-threaten-access-and>.

<sup>20</sup> PEW CHARITABLE TRUSTS, *PURSUING THE AMERICAN DREAM: ECONOMIC MOBILITY ACROSS GENERATIONS 25* (2012), available at [https://www.pewtrusts.org/media/legacy/uploadedfiles/wwwpewtrustsorg/reports/economic\\_mobility/pursuingamericandreampdf.pdf](https://www.pewtrusts.org/media/legacy/uploadedfiles/wwwpewtrustsorg/reports/economic_mobility/pursuingamericandreampdf.pdf).

<sup>21</sup> U.S. COMM'N ON C.R., *PUBLIC EDUCATION FUNDING INEQUITY IN AN ERA OF INCREASING CONCENTRATION OF POVERTY AND RESEGREGATION 14* (2018), available at <https://www.usccr.gov/pubs/2018/2018-01-10-Education-Inequity.pdf>.

that discriminating with the new federal funds would be illegal.<sup>22</sup> While the federal government has put substantial resources into making classroom instruction funding more equitable, including by allocating COVID-19 relief funding using the ESEA Title I Part A formula, it has not brought that same focus to ensuring that physical classrooms and schools themselves are equitable for all students.

Decades after the *Brown* decision and the enactment of ESEA, public school infrastructure spending remains a source of education inequity. Low-wealth communities that have difficulty providing adequate funding for school operations can neither raise the funds necessary to keep pace with building modernization needs nor adequately accommodate growing student populations, relegating children to outdated and sometimes hazardous public school facilities. The Government Accountability Office (GAO) examined resource inequities and the physical condition of our nation's public schools in 1996, determining that poor school facility conditions were most concentrated in high-poverty schools that serve students of color.<sup>23</sup> Further, a 2006 Building Education Success Together report found that high-poverty school systems are unable to adequately invest in school facilities.<sup>24</sup> Districts that predominantly serve white students spend nearly 50 percent more on capital construction than those that predominantly serve students of color, and wealthy districts spend nearly triple the amount their high-poverty counterparts do.<sup>25</sup>

While state spending has sometimes made a positive difference when it comes inequity in school operations, that is rarely the case when it comes to school construction. As of 2021, only eight states cover 50 percent or more of the cost of capital school construction. Eleven states contribute nothing and ten states contribute between one and nine percent of costs.<sup>26</sup> Reexamining the issue resource equity in school facilities in 2020, GAO found that this chronic underinvestment disproportionately impacts high-poverty school districts, which are more likely to rely on state funding and less likely to use property taxes to fund school facilities improvements.<sup>27</sup> Federally-impacted schools, including schools on or near military bases, reservation lands, and public housing facilities face a dire infrastructure need as well, with even fewer resources to rely on due to the lack of taxable property to fund schools. According to a recent report, these schools face a \$13 billion backlog in school construction needs, \$4 billion of which is considered a "pressing need".<sup>28</sup> Con-

<sup>22</sup> 42 U.S.C. § 2000d (2012) ("No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.").

<sup>23</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, GAO/HEHS-96-103, SCHOOL FACILITIES: AMERICA'S SCHOOLS REPORT DIFFERING CONDITIONS 18 (1996).

<sup>24</sup> BUILDING EDUCATIONAL SUCCESS TOGETHER, GROWTH AND DISPARITY: A DECADE OF U.S. PUBLIC SCHOOL CONSTRUCTION 20–21 (October 2006), available at <http://www.21csf.org/csf-home/publications/best-growth-disparity-2006.pdf>.

<sup>25</sup> *Id.* at 21–24.

<sup>26</sup> Mary Filardo, 2021 *State of Our Schools: America's PK–12 Public School Facilities*, 21st Century School Fund (2021), available at <https://education.wellcertified.com/hubs/IWBI%20-%20State%20of%20Our%20Schools%202021.pdf>.

<sup>27</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-20-494, K-12 EDUCATION: SCHOOL DISTRICTS FREQUENTLY IDENTIFIED MULTIPLE BUILDING SYSTEMS NEEDING UPDATES OR REPLACEMENTS (2020).

<sup>28</sup> Letter from National Association of Federally Impacted Schools to Rep. Bobby C. Scott and Sen. Jack Reed in support of the Rebuild America's Schools Act, (Feb. 25, 2019) available at

gress has a responsibility to address these persistent critical gaps; every day of inaction maintains a system that not only fails to provide quality education infrastructure for all students, but also disproportionately impacts the quality of education for students of color.

To fight the persistent inequity in school facilities, provisions of H.R. 604 ensure that funds authorized for school construction, rehabilitation, and modernization are allocated equitably. This begins by allocating funds authorized by title I of the bill (\$100 billion over 10 years) proportional to state allocations under ESEA Title I. To ensure equitable distribution of funds to LEAs within each state, the bill requires that states subgrant to LEAs that are among those with either the highest *number* or *percentage* of low-income students. The Committee intends this provision to give the state the power to make subgrants both to LEAs that serve large populations of low-income students (often LEAs serving densely populated urban areas) and districts that serve high concentrations of low-income students (often LEAs serving less-densely populated rural areas). The legislation's goal of intrastate equity is also furthered by the requirement that a participating state award subgrants to a geographically diverse slate of LEAs.

#### *Federal government's historic role in school construction*

Over the last century, the federal government has either directly or indirectly provided billions of dollars to states and LEAs for new public school construction and the rehabilitation and modernization of existing public schools. The effects of these federal programs can last decades, even when a period of investment in public school facilities is relatively short-lived. A one-time investment in school construction as envisioned by the *Rebuild America's Schools Act of 2022* has the potential to improve the trajectory of public education outcomes in America for generations to come.

While it is outside the committee's jurisdiction, indirect federal spending on public school infrastructure via the federal tax code is too large to be ignored. Since 1913, federal law has given favorable tax treatment to state and local municipal bonds, bonds often used to fund public school construction.<sup>29</sup> By exempting interest paid on these bonds from taxable income, the federal government has made these bonds an attractive investment vehicle, incentivizing billions of dollars in public school infrastructure investment, and forgoing billions of dollars in federal tax revenue in the process. As recently as 2009, Congress acted to create new bond authority specifically for school construction. *The American Reinvestment and Recovery Act* created Qualified School Construction Bonds (QSCBs). The federal government issued up to \$22 billion in bond authority to states over two years.<sup>30</sup> In effect, QSCBs operated as an interest-free loan to LEAs because the federal government covered 100 percent of the interest paid to the bondholder. While many communities took advantage of the bonds, communities with the least ability to raise funds (the highest poverty LEAs) were not able to use the bonds

<https://edlabor.house.gov/imo/media/doc/NAFIS%20Mark%20up%20Support%20Rebuild%20Americas%20Schools%20Act.pdf>.

<sup>29</sup> CASSANDRIA DORTCH, CONG. RESEARCH SERV. R41142, SCHOOL CONSTRUCTION AND RENOVATION: A REVIEW OF FEDERAL PROGRAMS 3 (2013).

<sup>30</sup> 26 U.S.C. § 54F (2012) (repealed 2017).



due to their inability to raise the principal and repay the bond, even though the interest would have been paid by the federal government. In the history of federal spending on school construction, indirect spending via the tax code has been the tool most often used, and regrettably, the least equitable one. Reliance on indirect investment in public school facilities via the tax code has widened the opportunity gap between high-poverty and wealthier school districts.

H.R. 604 recognizes that making investment in public school infrastructure more affordable through tax-friendly benefits can help districts with the means to take advantage of such tools both defray costs and budget for school construction more effectively. Title II of the bill includes tax incentives designed to result in \$30 billion for public school construction, modernization and rehabilitation. This title is within the jurisdiction of the Committee on Ways and Means and was not considered by this Committee during legislative session on H.R. 604.

Recognizing that it will take more than tax incentives to fix our public school infrastructure gap, H.R. 604 authorizes \$100 billion in grant aid to states and LEAs. The scope of investment envisioned in H.R. 604 harkens back to the last large-scale effort to provide federal grant funding for public school facilities: the New Deal.

The New Deal's comprehensive response to the Great Depression included the funding of thousands of local public works projects paid for with federal funds, including public schools. In the first year of the New Deal, the Civil Works Administration (CWA) rehabilitated or constructed 30,000 schools.<sup>31</sup> While local labor was employed in the process, the buildings were constructed directly by funds from the federal government. The follow-up to the CWA, the Works Progress Administration (WPA) lasted from 1935–43. During that time, the WPA constructed more than 5,900 school buildings and over 2,100 additions to existing school buildings. The WPA also constructed over 1,800 (and improved over 8,200) public school playgrounds,<sup>32</sup> and renovated or modernized over 31,000 public school buildings.<sup>33</sup> WPA school projects were funded through a combination of federal grant and/or loan funds, usually coupled with a local share. Many of the schools built with WPA funds during the New Deal are still in use today as schools or school-related facilities. There is no comprehensive list of all the schools built with New Deal funds that are still open and operating as schools, but there were at least 30 school facilities still open and operating in districts represented by members of the Committee at the end of the 116th Congress.<sup>34</sup>

<sup>31</sup> FEDERAL WORKS AGENCY, FINAL REPORT ON THE WPA PROGRAM, 1935–1943 4 (1946).

<sup>32</sup>*Id.* at 50. H.R. 604 includes as allowable uses of grant funds the construction, modernization, renovation and retrofitting of public playgrounds and playground on public school facilities as an eligible use of funds, noting the proven benefits of recreation both to student health and academic success.

<sup>33</sup>*Id.* at 52.

<sup>34</sup>H.R. Rep. No. 116–684, pt. 1, at 35 (2020). No official record currently exists of schools built using New Deal funds that are still in use as schools. The list of facilities cited here does not include New Deal projects that were solely renovations or improvements to existing buildings, like murals or athletic fields. There are also many New Deal school buildings that are still in use but not for educational purposes; this list also excludes New Deal schools in Committee member districts that are still in use, but have been converted to local government buildings,

Continued

An \$130 billion investment in public school facilities is long overdue. While there have been attempts at the federal level to provide direct investment in school infrastructure in recent years, most have not been successful. Congress authorized more than \$200 million for public school construction, modernization and repair in the 1994 reauthorization of ESEA, but never appropriated money to the program.<sup>35</sup> In 2001, Congress appropriated \$1.2 billion for public school facility renovation and repairs and ensured distribution to low-wealth, rural, and federally-connected schools.<sup>36</sup> In 2009, House Democrats tried unsuccessfully for the inclusion of public school infrastructure grant funds in the American Recovery and Reinvestment Act. While \$14 billion in grant funds for the repair, modernization, and renovation of public schools were included in the House-passed bill (H.R. 1), the provisions were stripped in Conference with the Senate. This same thing occurred in the 116th Congress, when H.R. 2, the *Moving Forward Act*, the comprehensive infrastructure bill of that Congress, passed the House with the inclusion of the *Reopen and Rebuild America's Schools Act*, only to be stripped out in negotiation with the Senate. As H.R. 2 was the starting point for negotiation of H.R. 3684, the *Infrastructure Investment and Jobs Act*, school infrastructure was once again excluded from a generational federal investment in infrastructure.<sup>37</sup> Typically, “infrastructure” is limited to federal buildings, roads, tunnels, bridges and water products. Under ESEA, the use of funds for schools must be explicit since the law expressly prohibits the use of funds on construction unless specifically authorized.

Since 2009, as states have slowly recovered from the Great Recession, the need for federal investment in public school construction has only grown. Half of states spend less on education now than they did before the Recession.<sup>38</sup> As Mary Filardo noted in her testimony before the Committee this Congress, “States provided only 18 percent toward district capital construction projects over 20 years from 1994 to 2013, resulting in nearly half a trillion in long-term debt for local school districts.”<sup>39</sup> A recent report, authored by Ms. Filardo, finds that states continue to underinvest in public school facilities. From 2017 to 2019, states and districts spent \$110 billion annually, on average, on preK–12 facilities—leaving an annual gap of \$85 billion.<sup>40</sup> Of note, this spending gap has nearly doubled since the report was first published in 2016, due in part to the rising cost of school construction and a decline in school facilities expenditures after the great recession.

The state of school infrastructure was one of many issues facing Congress when attempting to provide funds to fight the COVID–19 global pandemic. Over the last two years, Congress has authorized additional funds in the form of COVID–19 emergency relief, which

senior living facilities, and town halls. THE LIVING NEW DEAL, <http://livingnewdeal.org> (last visited Jul. 21, 2019).

<sup>35</sup> CASSANDRIA DORTCH, CONG. RESEARCH SERV. R41142, SCHOOL CONSTRUCTION AND RENOVATION: A REVIEW OF FEDERAL PROGRAMS 3–4 (2013).

<sup>36</sup> *Id.* at 4.

<sup>37</sup> Pub. L. No. 117–58, 135 Stat. 429, (2021).

<sup>38</sup> AMERICAN FEDERATION OF TEACHERS, A DECADE OF NEGLECT, PUBLIC EDUCATION FUNDING IN THE AFTERMATH OF THE GREAT RECESSION 2 (2018) available at <https://www.aft.org/sites/default/files/decade-of-neglect-2018.pdf>.

<sup>39</sup> *Building Back Better: Investing in Improving Schools, Creating Jobs, and Strengthening Families and our Economy: Hearing Before H. Comm. on Educ. & Lab.*, 117th Cong. (2021) (statement of Mary Filardo, Executive Director, 21st Century School Fund).

<sup>40</sup> Filardo, *supra* note 26, at 14.

can be leveraged for certain school facility repairs. On March 27, 2020, Congress provided \$13.2 billion for K–12 schools to respond to and recover from the COVID–19 pandemic through the *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2021* via the Elementary and Secondary School Emergency Relief (ESSER) fund.<sup>41</sup> Congress provided an additional \$54.3 billion via the ESSER fund under the Consolidated Appropriations Act, 2021, and an historic \$122 billion for the ESSER fund under the *American Rescue Plan (ARP) Act of 2021*.<sup>42</sup> SEAs and LEAs can use ESSER funds for a wide range of activities to respond to and recover from the pandemic, including for school construction, as this construction is authorized in title VII of ESEA. The definition of “construction” in title VII includes new construction, as well as remodeling, alterations, renovations, and repairs.<sup>43</sup> In May of 2021, the Department released guidance, which clarifies that renovation or remodeling activities necessary for an LEA to prevent, prepare for, or respond to COVID–19 are permissible uses of ESSER funds.<sup>44</sup> This includes renovations that support effective cleaning, social distancing, or ventilation. However, the guidance dissuades LEAs from using ESSER funds for new construction, given the extended timing and costly nature of such projects and the likelihood that such spending would limit school districts from supporting other necessary needs or initiatives.

An analysis of LEA spending plans from FutureEd, a think tank at Georgetown University’s McCourt School of Public Policy, indicates that over half of school districts intend to spend ESSER funds to improve or replace heating, ventilation, and air conditioning (HVAC) systems.<sup>45</sup> This includes purchasing new filters for pre-existing units or replacing faulty HVAC systems entirely. For example, Los Angeles Unified School District has budgeted \$50 million in ARP ESSER funds to purchase 55,000 portable air purifiers.<sup>46</sup> Likewise, St. Joseph’s School District in Missouri has budgeted \$25 million for HVAC upgrades.<sup>47</sup> Of note, these expenditures are among the most expensive priorities for school districts, averaging approximately \$400 per student.<sup>48</sup> The report additionally finds that 31 percent of school districts plan to invest in facilities repairs to prevent illness, while approximately 10 percent of school districts plan to invest in additions to existing school buildings.<sup>49</sup>

While ARP ESSER funds have provided districts with critical resources to reopen school buildings safely in the COVID–19 pandemic, including by improving indoor air quality and enabling so-

<sup>41</sup> Pub. L. No. 116–136, §§ 18001, 18003, 134 Stat. 281, 564–567.

<sup>42</sup> Pub. L. No. 116–260, §§ 311, 313, 134 Stat. 1924, 1929–32 (Division M of this law may be referred to as the *Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) of 2021*); Pub. L. No. 117–2, § 2001, 135 Stat. 4, 19.

<sup>43</sup> 20 U.S.C. § 7713(c).

<sup>44</sup> U.S. Dept. of Educ., Frequently Asked Questions, Elementary and Secondary School Emergency Relief Programs, Governor’s Emergency Education Relief Programs, (May 2021), [https://oese.ed.gov/files/2021/05/ESSER.GEER\\_FAQs\\_5.26.21\\_745AM\\_FINALb0cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf](https://oese.ed.gov/files/2021/05/ESSER.GEER_FAQs_5.26.21_745AM_FINALb0cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf).

<sup>45</sup> Phyllis W. Jordan & Bella DiMarco, *National, Regional Trends in Educators’ Covid-Relief Spending*, FutureEd (March 1, 2022), <https://www.future-ed.org/national-reading-trends-covid-relief-spending/>. The FutureEd study analyzed approximately 72% of districts and about 2,364 districts planned to use ESSER funds on HVAC. This study could only assess plans as reporting on actual expenditures at the district level is not yet available.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

cial distancing, there remains significant need with regard to school construction generally. As Ms. Filardo noted in her testimony before the Committee, based on analysis of 12 states with facilities maintenance backlogs, if districts in those 12 states dedicated 15 percent of their ARP allocation to school facilities improvements, such an investment would only cover three percent of the total school facilities needs in those states.<sup>50</sup> She explained,

“So it’s fantastic what we’re getting from the [American] Rescue Plan for our school districts, but it just in no way makes progress against the really long-term issues we’re facing for resilient schools, for energy efficient schools, for you know, schools that we really need to meet the workforce and early childhood requirements that we know are a part of the responsibilities of our communities.”<sup>51</sup>

Despite the size and scope of the unmet need for capital investments, Committee Republicans sought to prevent school districts from accessing direct funding for school construction, proposed under H.R. 604, until all ESSER funds have been expended. An amendment proposing such, introduced by Rep. Christopher Jacobs (R-NY), was defeated on a recorded vote of 27–19.

This amendment is just one example of efforts minority Members of the Committee advocated to delay or otherwise obstruct H.R. 604’s provisions from providing schools with needed funding. In statements during the markup of H.R. 604, Republican members of the Committee expressed fundamental concerns with spending federal funds on school infrastructure. However, the unmet need for capital investments is not merely a philosophical debate about federalism. As long as states maintain these inequitable funding systems, wealthy, primarily white neighborhoods will continue to fund high-quality schools, and non-wealthy, primarily communities of color, will continue to struggle to fund their schools to parity even with additional help from state and federal funding. Proponents of returning sole education funding responsibility to the states cannot deny the fact that in more than half of states, the least-wealthy school districts especially those that primarily serve students of color, still receive less funding—about \$1,800 less per student.<sup>52</sup> Increasingly, citizens are holding their state governments accountable; there are currently 12 states facing lawsuits for inadequate or inequitable education funding.<sup>53</sup>

Inequitable school funding is not simply a question of fairness on paper. It creates life-long consequences that bar individual economic independence and dignity that every American should know. In the face of overwhelming evidence that wealthy schools produce results for their students and non-wealthy schools do not, it is the Committee’s view that Congress must keep its promise to close the gap in educational quality and equality. School funding makes a marked difference in the quality of education a student receives—

<sup>50</sup> *Building Back Better: Investing in Improving Schools, Creating Jobs, and Strengthening Families and our Economy: Hearing Before H. Comm. on Educ. & Lab.*, 117th Cong. (2021) (statement of Mary Filardo, Executive Director, 21st Century School Fund).

<sup>51</sup> *Id.*

<sup>52</sup> Morgan & Amerikaner, *supra* note 17, at 4.

<sup>53</sup> Ctr. for Educational Equity, Teachers College, School Funding.info (last visited Oct. 25, 2022), <http://www.schoolfunding.info/litigation-map/>. The states are: Arizona, Arkansas, Delaware, Maryland, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, and Tennessee.

better course offerings, smaller class size, more-qualified teachers, and environments conducive for learning. As funding gaps persist, so do gaps in school infrastructure quality. A federal response is necessary as this problem has real world implications not only for equity in education offerings but also for the health and safety of students and teachers nationwide.

*H.R. 604 addresses unsafe learning and working conditions and other deficits caused by inadequate school infrastructure funding*

On any given school day, nearly one-sixth of Americans spend time in one of our country's approximately 100,000 public K–12 school facilities.<sup>54</sup> On average these facilities are nearly 50 years old.<sup>55</sup> While these statistics are nationwide averages, we know that facilities in need of repair are concentrated in high-poverty school districts. Additionally, a growing body of research shows that high-quality facilities help improve academic achievement, reduce student and staff absences, and reduce suspensions.<sup>56</sup> As the setting for learning, public school facility conditions either hinder or help student performance.<sup>57</sup> Despite the positive effects of adequate facilities, far too many children and adults continue to learn and work in public schools that are unsafe and unhealthy.

It is well-documented that our nation's public school facilities pose significant health and safety threats to many of the more than 49 million students<sup>58</sup> and 3 million teachers.<sup>59</sup> Despite an expanding research base to improve understanding of how health quality affects student learning, not much has changed at the state level to ensure healthy school buildings. The 1996 GAO report found that more than 15,000 public schools were circulating air unfit to breathe.<sup>60</sup> Low air circulation has been linked to missed school days for respiratory infections and asthma exacerbation and increased student visits to the nurse.<sup>61</sup> Time has not significantly improved such deplorable conditions. More than 20 years later, reports of poor air quality in schools persist.<sup>62</sup> The GAO report on school facilities released in June of 2020, found that four in 10 school districts need to update or replace HVAC systems in at least

<sup>54</sup>MARY FILARDO & JEFFREY VINCENT, ADEQUATE & EQUITABLE U.S. PK–12 INFRASTRUCTURE: PRIORITY ACTIONS FOR SYSTEMIC REFORM, (PK–12 School Infrastructure National Initiative, 2017), available at <http://www.centerforgreenschools.org/sites/default/files/resource-files/infrastructure-priority-actions-report.pdf>.

<sup>55</sup>U.S. GOV'T ACCOUNTABILITY OFFICE, GAO/HEHS–95–61, SCHOOL FACILITIES: CONDITION OF AMERICA'S SCHOOLS (1995), available at <https://www.gao.gov/assets/230/220864.pdf>.

<sup>56</sup>E.g., CTR. FOR EVAL. & POL'Y ANAL., PENN STATE UNIVERSITY, THE IMPORTANCE OF SCHOOL FACILITIES IN IMPROVING STUDENT OUTCOMES (June 2015) available at <https://sites.psu.edu/ceepa/2015/06/07/the-importance-of-school-facilities-in-improving-student-outcomes/>; Mark Schneider, *Do School Facilities Affect Academic Outcomes?*, NAT'L CLEARINGHOUSE FOR EDUC. FACILITIES (Nov. 2002), <http://www.ncef.org/pubs/outcomes.pdf>.

<sup>57</sup>The Center for Green Schools, *Green school buildings are better for teachers and students*, (July 1, 2018), <https://www.centerforgreenschools.org/green-schools-are-better-learning>.

<sup>58</sup>U.S. Dep't of Educ., Inst. of Educ. Scis, Report on the Condition of Education in 2022, (2022) <https://nces.ed.gov/pubs2022/2022144.pdf>.

<sup>59</sup>LINDSAY BAKER & HARVEY BERNSTEIN, THE IMPORTANCE OF SCHOOL BUILDINGS ON STUDENT HEALTH AND PERFORMANCE (2012) available at [http://centerforgreenschools.org/sites/default/files/resource-files/McGrawHill\\_ImpactOnHealth.pdf](http://centerforgreenschools.org/sites/default/files/resource-files/McGrawHill_ImpactOnHealth.pdf).

<sup>60</sup>See AMERICA'S SCHOOLS REPORT DIFFERING CONDITIONS, *supra* note 22, at 43.

<sup>61</sup>Oluyemi Toyinbo, et al., *Modeling Associations between Principals' Reported Indoor Environmental Quality and Students' Self-Reported Respiratory Health Outcomes Using GLMM and ZIP Models*, 13 INT'L J. ENVTL. RES. & PUB. HEALTH 385 (April 2016) available at <https://www.ncbi.nlm.nih.gov/pubmed/27043595>.

<sup>62</sup>Courtney Vaughn and Nick Budnick, *Portland teacher fights to fix school's air quality*, PORTLAND TRIB., June 27, 2019, available at <https://pamplinmedia.com/pt/9-news/432100-340532-portland-teacher-fights-to-fix-schools-air-quality>.

half their schools—this represents 36,000 schools nationwide.<sup>63</sup> This latest GAO report included visits to schools in Rhode Island and Michigan where they found some HVAC systems over a century old.<sup>64</sup> Research also shows a correlation between test scores and air temperature,<sup>65</sup> yet due to financial constraints, many schools across the country cannot afford to replace or even maintain HVAC units. There have been multiple documented accounts in the last ten years of public schools in the United States that have either been forced to close due to rising summer temperatures<sup>66</sup> or have had students and teachers “bundled up” to withstand winter weather indoors.<sup>67</sup>

Moreover, the COVID-19 pandemic has made properly functioning HVAC systems even more critical. To prevent the spread of COVID-19 in schools, the Centers for Disease Control and Prevention (CDC) has recommended that schools “optimize ventilation and improve indoor air quality.”<sup>68</sup> To achieve this objective, the CDC suggests bringing outdoor air inside by safely opening windows and doors, ensuring that HVAC systems are serviced and set to maximize ventilation, and filtering or cleaning air through the use of portable air cleaners.<sup>69</sup> For reintroduction in the 117th Congress, changes were made to *Rebuild America’s Schools Act* to address the significant barrier that outdated school facilities posed to improving ventilation and safely reopening classrooms for in-person learning. Specifically, in the first fiscal year, the bill would require that states prioritize subgrants to fund capital projects that are in line with CDC guidance, with mention of activities to improve indoor air quality. Additionally, the bill would require that states collect data on facility improvements needed to support COVID-19 mitigation strategies, consistent with CDC guidance, for each public school facility in the state’s jurisdiction.

During markup, Rep. McClain introduced an amendment to strike these provisions from the bill, arguing without evidence that the COVID-19 prevention strategies recommended by the CDC are no longer necessary to keep students and staff. Currently, the CDC recommends that improving ventilation is an important strategy to safely maintain operations—particularly in communities with medium to high COVID-19 levels.<sup>70</sup> Further, if a school experiences a COVID-19 outbreak, the CDC advises adding prevention strategies regardless of COVID-19 levels within the community. While 99 percent of schools were open for in-person learning as of April 2022,<sup>71</sup> new highly infectious coronavirus variants continue to de-

<sup>63</sup> GAO-20-494, *supra* note 27, at 8.

<sup>64</sup> *Id.* at 9.

<sup>65</sup> Jisung Park, *Temperature, Test Scores, and Human Capital Production*, (2017) available at [http://scholar.harvard.edu/files/jisungpark/files/temperature\\_test\\_scores\\_and\\_human\\_capital\\_production\\_-\\_j\\_park\\_-\\_2-26-17.pdf](http://scholar.harvard.edu/files/jisungpark/files/temperature_test_scores_and_human_capital_production_-_j_park_-_2-26-17.pdf).

<sup>66</sup> Lillian Reed, *About 35 Baltimore-area schools without air conditioning dismiss early amid June heat wave*, BALTIMORE SUN (June 7, 2021), available at <https://www.baltimoresun.com/education/bs-md-schools-close-heat-20210607-20210607-2big6ph46nct3fte435zvdfr4-story.html>.

<sup>68</sup> Ctrs. for Disease Control & Prevention, *Operational Guidance for K-12 Schools and Early Care and Education Programs to Support Safe In-Person Learning*, (May 27, 2022) available at [https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-childcare-guidance.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcommunity%2Fschoools-childcare%2Fk-12-guidance.html](https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-childcare-guidance.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcommunity%2Fschoools-childcare%2Fk-12-guidance.html).

<sup>69</sup> Ctrs. for Disease Control & Prevention, *Ventilation in Schools and Childcare Programs*, (February 26, 2021) available at <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/ventilation.html>.

<sup>70</sup> Ctrs. for Disease Control & Prevention, *supra* note 67.

<sup>71</sup> U.S. Dep’t of Educ., *Inst. of Educ. Scis, School Pulse Panel: Key Findings from April 2022*, (April 2022) available at <https://ies.ed.gov/schoolsurvey/>.

velop, and experts note that widespread infections caused by the delta and omicron variants resulted in an increased number of cases in children—including uncommon severe infections and death.<sup>72</sup> Instead of playing politics with the health and safety of students, teachers, and school staff, Congress should follow the evidence offered by leading public health experts and continue to support schools in mitigating the spread of COVID-19. Accordingly, the Committee defeated the McClain amendment on a recorded vote of 26–19.

The 1996 GAO report also found that 21 percent of schools responding to their survey spent funds on removing lead in either paint or water, and another 16 percent needed to spend more on lead abatement to meet safety standards.<sup>73</sup> Twenty-two years later, a GAO report on lead in water specifically, found that half of U.S. schools tested positive for lead in drinking water.<sup>74</sup> A recent study by the T.H. Chan School of Public Health at Harvard University and the Nutrition Policy Institute at the University of California found that only 25 states had a school drinking water testing initiative between January 1, 2016 and February 28, 2018.<sup>75</sup> Even in the states that did test drinking water in schools, the researchers found that there was no uniformity in how the testing was done, or what actions schools took as a result of testing positive for lead. This inadequacy and inconsistency across states leaves students and staff vulnerable to serious health hazards, as we saw in Flint, Michigan. The continuing presence of lead in any form in public schools, nearly 50 years after Congress first recognized its toxicity and outlawed its use in paint in public housing,<sup>76</sup> is endemic of the state of our school infrastructure crisis.<sup>77</sup> H.R. 604 would require states to review and issue regulations to encourage safe construction practices and healthy school facilities, thereby ensuring the most effective use of the funding provided by the bill.

H.R. 604 also addresses specific dangerous conditions that impact public schools, such as crumbling building foundations. Pyrrhotite, a naturally-occurring mineral, can cause the rapid deterioration of building foundations when it is found in the concrete used to pour the foundation. New England generally, and Northeast and Northcentral Connecticut in particular, are experiencing hundreds, possibly thousands, of crumbling foundations in homes and public buildings, including schools, due to the use of concrete composed in part of quarried rock containing pyrrhotite.<sup>78</sup> Engi-

<sup>72</sup> Johns Hopkins Medicine, *COVID Variants: What You Should Know*, (April 8, 2022) available at <https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/a-new-strain-of-coronavirus-what-you-should-know>.

<sup>73</sup> AMERICA'S SCHOOLS REPORT DIFFERING CONDITIONS, *supra* note 22, at 5–6.

<sup>74</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-18-382, K-12 EDUCATION: LEAD TESTING OF SCHOOL DRINKING WATER WOULD BENEFIT FROM IMPROVED FEDERAL GUIDANCE (2018) available at <https://www.gao.gov/assets/700/692979.pdf>.

<sup>75</sup> ANGIE CRADOCK, ET AL., EARLY ADOPTERS: STATE APPROACHES TO TESTING SCHOOL DRINKING WATER FOR LEAD IN THE UNITED STATES (Harvard T.H. Chan School of Public Health, 2019) available at <http://npi.ucanr.edu/files/296549.pdf>.

<sup>76</sup> Lead-Based Paint Poisoning Prevention Act, Pub. L. No. 91-695, 84 Stat. 2078 (1971).

<sup>77</sup> Aside from presence in drinking water, U.S. schools still have problems related to lead paint as in some schools it is still peeling from school walls, severely poisoning students who ingest it. Wendy Ruderman, et al., *Philadelphia school kids will get added protections from lead paint perils*, PHILA. INQ., Dec. 13, 2018 available at <https://www.inquirer.com/news/philadelphia/lead-paint-philadelphia-schools-protections-toxic-city-20181213.html>.

<sup>78</sup> George Colli, *Courtney Tours Crumbling School in Tolland*, WTNH NEWS 8, Mar. 5, 2019, available at <https://www.wtnh.com/news/news-8-investigators/courtney-tours-crumbling-school-in-tolland/1829040015>.

neers discovered the problem in 2015 and contractors now test for the presence of pyrrhotite before pouring concrete foundations. But all school buildings in this region with concrete foundations built between 1983 and 2015 could experience foundation crumbling at some point over the next 20 years.

As an immediate precaution, public schools built during that 1983–2015 period have been forced to close on days when winds reach over 60 miles per hour. Many schools have taken the precaution of moving students to temporary classroom sites while LEAs consider or acquire the financial means to rebuild.<sup>79</sup> Repairs can cost a school community millions of dollars and take up to two years for each affected school. Title VI of the bill would authorize a federal grant program to states to reimburse pyrrhotite-affected school districts within their state. The program would cover up to 50 percent of the unexpected costs provided that the state in which affected school is located contributes at least 40 percent of the share. Only LEAs that fail to qualify for funds under either title I or title II of the bill are eligible for funds authorized under title V.

There are other issues caused by the lack of investment in educational infrastructure addressed in H.R. 604. The Committee recognizes the overcrowding problem schools face as student populations grow. The bill therefore allows grants to be used to address that need, along with ensuring the building exteriors and interiors are well-protected and secure. The Committee also notes that air temperature is a prevalent issue schools face, due to insufficient heating or cooling systems, and H.R. 604 allows for major repairs or new investments in these systems to regulate a healthy learning temperature. Grants and bonds may also be used to improve energy and water efficiency to lower costs and energy consumption and to build modernizations that reduce reliance on fossil fuels and expand the use of solar power, wind power, and other renewable energy resources. H.R. 604 funds can be used to ensure safe drinking water and to take other steps to generally ensure the health and safety of students and staff during construction. States and LEAs may also use funds to bring a school facility into compliance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973. And, recognizing the classroom of yesterday and the classroom of tomorrow are not the same, grants and bonds under H.R. 604 may be used to build appropriate instructional space according to school course offerings and services. For example, funds can be used to build collaborative workspaces such as makerspaces, which allow for creative approaches to science, technology, and math (STEM) disciplines, or to soundproof a school music room. Likewise, any construction to expand or support facilities that house or support school-provided services is also covered under the bill.

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<sup>79</sup> Rob Polansky, et al., *Town wide meeting held to discuss crumbling foundation at Tolland school*, WFSB EYEWITNESS NEWS 3, Mar. 5, 2019, available at [https://www.wfsb.com/news/town-wide-meeting-held-to-discuss-crumbling-foundation-at-tolland/article\\_e5842d46-3f43-11e9-ae92-bfd158ac6ff5.html](https://www.wfsb.com/news/town-wide-meeting-held-to-discuss-crumbling-foundation-at-tolland/article_e5842d46-3f43-11e9-ae92-bfd158ac6ff5.html).



*H.R. 604 increases support for existing sources of federal funding of school construction*

Aside from indirect spending via the tax code, and direct grant aid to states, the federal government currently provides direct funding for public school construction in two other areas: schools with distinct federal roles (Impact Aid) and schools affected by natural disasters. H.R. 604 builds on both of these existing programs.

Federally impacted school districts, those with high percentages of federally owned (and therefore untaxed) land have long relied on federal aid to supplement both public school operation and construction budgets. The Impact Aid program, which provides funds for the operations of these school districts, also includes a line item specifically for school construction.<sup>80</sup> While support for school construction via Impact Aid has been a longstanding federal investment, the amount authorized and appropriated is relatively low in the face of the outsized need.<sup>81</sup> H.R. 604 authorizes an additional \$500 million a year for Impact Aid school construction over the next five fiscal years, an increase of over 400 percent compared to the current authorization.

The federal government also provides grant funding via the Federal Emergency Management Agency (FEMA) to public entities for school repair or new school construction in the wake of a federally declared disaster. H.R. 604 does not directly address recovery from disasters, but instead allows school districts to use funds to prepare for natural disasters before they occur. Climate change, due in part to human activity, has increased the frequency and severity of natural disasters. In 2018, thirteen federal agencies released a report that predicts the effects of climate change will worsen and make protecting American infrastructure more difficult if steps are not taken to curb global warming.<sup>82</sup> California has already lost public schools to wildfires exacerbated by drought, schools on the nation's coasts are constantly facing the threat of destruction due to hurricanes, and schools in inland areas are impacted by record-setting seasonal flooding.<sup>83</sup> According to a CRS report of federal disaster relief funds, the U.S. has spent approximately \$5.7 billion just between fiscal years 2005 and 2017 repairing public school facilities that have not withstood major natural disasters.

H.R. 604 attempts to fix two major drawbacks in the use of FEMA funds for school construction. First, FEMA funds, by design, can only be used to address recovery after a disaster has occurred. In contrast, funds from H.R. 604 can be used to mitigate threats

<sup>80</sup> 20 U.S.C. § 7714(d)(2012).

<sup>81</sup> NAT'L ASSN. OF FEDERALLY IMPACTED SCHS., FOUNDATIONS FOR LEARNING: THE FACILITIES NEEDS OF FEDERALLY IMPACTED SCHOOLS, 8 (2017), available at <https://www.nafisdc.org/wp-content/uploads/2017/07/2017-school-construction-report.pdf>.

<sup>82</sup> U.S. GLOBAL CHANGE RESEARCH PROGRAM, FOURTH NATIONAL CLIMATE ASSESSMENT 34 (Vol. II, 2018), available at [https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf); see also Brady Dennis & Chris Mooney, *Major Trump administration climate report says damage is 'intensifying across the country'*, WASH. POST, Nov. 23, 2018, available at <https://www.washingtonpost.com/energy-environment/2018/11/23/major-trump-administration-climate-report-says-damages-are-intensifying-across-country/>.

<sup>83</sup> David Washburn & Diana Lambert, *Plans come into focus for California schools ravaged by wildfires*, EDSOURCE, Nov. 28, 2018, available at <https://edsource.org/2018/plans-come-into-focus-for-schools-ravaged-by-wildfires/605409>; Nicole Acevedo, *In Puerto Rico, new school year begins after Hurricane Maria, big changes to education system*, NBCNEWS, Aug. 13, 2018, available at <https://www.nbcnews.com/storyline/puerto-rico-crisis/puerto-rico-new-school-year-begins-after-hurricane-maria-big-n899866>; Scott Olson, *For the Midwest, Epic Flooding is the Face of Climate Change*, WIRED, May 4, 2019, available at <https://www.wired.com/story/for-the-midwest-epic-flooding-is-the-face-of-climate-change/>.

posed by climate change and natural disasters before they occur, allowing communities to proactively prepare for coming disasters. This is particularly important for low-wealth communities. A 2022 report from the GAO found that low-income school districts can be denied FEMA funds or receive less FEMA funds to cover recovery costs after a natural disaster due to issues with deferred maintenance.<sup>84</sup> Poorer districts often do not have sufficient staffing to maintain the necessary records to prove that damage was caused by the disaster, rather than neglect. Second, FEMA funds are provided only to restore facilities to *pre-disaster conditions*. This restoration is done without consideration of modernized building codes or materials that could equip schools to withstand future disasters better. For example, Super Typhoon Yutu, the strongest storm to hit any American territory in over 80 years,<sup>85</sup> destroyed public schools with tin roofs in the Commonwealth of the Northern Mariana Islands.<sup>86</sup> In a time of increasingly volatile global temperatures that, will result in more frequent and more powerful natural disasters,<sup>87</sup> mandating that these destroyed tin roofs be replaced with new tin roofs and not with more resilient roofs is shortsighted. Under H.R. 604, grant funds could be used for seismic retrofitting, protecting existing buildings from the elements, hazard resistance, and decarbonization. And to ensure that new construction with federal dollars does not exacerbate climate change, all construction projects funded under H.R. 604 must be certified, verified, or consistent with green building standards or rating systems, including the LEED Green Building Rating System, the Living Building Challenge, a green building rating system developed by the Collaborative for High-Performance Schools (CHPS), the Green Building Initiative Green Globes rating system, or a more stringent standard or rating system.

#### *H.R. 604 promotes effective school safety design*

The Committee recognizes all public school facilities must be safe, secure, and welcoming for students and staff. H.R. 604 allows for funding to be used on creating building designs that address security. The Committee believes the best way to address a school building's physical security issues is as part of a modernization and rehabilitation program. Secure and intentional building design considers student health, productivity, and sense of safety. Architects were able to design a safer school campus for Sandy Hook Elementary School in Newtown, Connecticut by using best design practices such as creating more visibility and using a layered strategic approach to mitigate threats.<sup>88</sup> For example, the newly designed

<sup>84</sup> U.S. Gov't Accountability Off., GAO-22-104606, Disaster Recovery: School Districts in Socially Vulnerable Communities Faced Heightened Challenges after Recent Natural Disasters, 22, (2022), <https://www.gao.gov/assets/gao-22-104606.pdf>.

<sup>85</sup> Allyson Chiu et al., *Extreme Category 5 typhoon, the worst U.S. storm since 1935, leaves Northern Mariana Islands devastated*, WASH. POST, Oct. 25, 2018, available at <https://www.washingtonpost.com/energy-environment/2018/10/24/extreme-category-typhoon-yutu-makes-devastating-landfall-northern-mariana-islands-us-commonwealth/>.

<sup>86</sup> *This is Not a Drill: Education-Related Response and Recovery in the Wake of Natural Disasters: Hearing Before H. Subcomm. on Early Childhood, Elem. & Sec. Educ. of the H. Comm. on Educ. & Lab.*, 116th Cong. (2019) (statement of Glenn Muña, Commissioner, CNMI Public School System) available at <https://edlabor.house.gov/imo/media/doc/Muna%20Testimony%20060519.pdf>.

<sup>87</sup> See sources cited *supra* note 58.

<sup>88</sup> Tom Dobbins, *Sandy Hook School Architect Testifies in Front of Congress About School Safety*, ARCH DAILY, (8:00 am, Aug. 25, 2018) available at <https://www.archdaily.com/900588/speaking-to-congress-jay-brotman-outlines-how-the-profession-intends-to-improve-school-safety>; But see

school allows for more natural light, which has been shown to increase productivity, not necessarily more physical barriers that make students feel barricaded as they are learning.

The Committee notes that this redesign is not the same as school hardening, a measure the Committee believes is not an allowable use of grant funds under H.R. 604. The research failed to conclude that hardening—such as in the form of fewer windows, metal detectors, intrusive surveillance systems, physical traits evident in prisons—actually makes schools safer.<sup>89</sup> On the contrary, studies show students feel less safe because of the presence of such hardening, so its use is not authorized here.<sup>90</sup>

*H.R. 604 provides transparency to hold government accountable for state of school facilities*

Local, state, and federal law created our nation's universal system of free public education. Its goal is to provide all children, regardless of family wealth or zip code, quality schooling in a safe learning environment. Sadly, the government at all levels has broken this promise to many communities. Children are compelled to learn in decrepit facilities that not only deny them equity of educational opportunity but are also making them sick. Mary Filardo pointed out in her testimony that her life's work was inspired by "Seeing that [her] children and so many others were spending their school days in classrooms that were baking hot, or too cold, and buildings with leaky roofs, fire code violations, asbestos, and poor air quality."<sup>91</sup> Government must act boldly to remedy this injustice and make good on its promise of a safe and healthy public school for every child.

The Committee notes that H.R. 604 proposes a comprehensive solution that brings all levels of government together to close our education infrastructure gap. Under H.R. 604, the federal government fulfills its role to ensure equity in education through targeted support. The state is empowered to fulfill its role as the primary custodian of public schools within its borders. And the LEA is charged with identifying and addressing needs specific to local schools.

And to ensure this accountability continues after the period of federal funding ends, the bill requires each state that receives funds under title I of the bill to build and maintain a comprehensive, publicly searchable school facilities online database. Currently there is no comprehensive national database on the condition of public school facilities. With increased transparency in each state, stakeholders can understand the extent of the problem from a wider lens and can better hold their government accountable for gaps in resources. State-level data collection and reporting will also

Grieg O'Brien, *Architect Jay Brotman testifying Before White house cabinet Secretaries on School Design Today*, ARCHITECT, Aug. 16 2018, available at [https://www.architectmagazine.com/design/architect-jay-brotman-testifying-before-white-house-cabinet-secretaries-on-school-design-today\\_o](https://www.architectmagazine.com/design/architect-jay-brotman-testifying-before-white-house-cabinet-secretaries-on-school-design-today_o). (Correctly reporting that the Mr. Brotman's testimony was before the Federal Commission on School Safety and not Congress).

<sup>89</sup> Valerie Strauss, *Study: There's no evidence that hardening schools to make kids safer from gun violence actually works*, WASH. POST, Apr. 16, 2019, available at <https://www.washingtonpost.com/education/2019/04/16/study-theres-no-evidence-that-hardening-schools-make-kids-safer-gun-violence-actually-works/>.

<sup>90</sup> Bayliss Fiddiman, et al., *Smart Investments for Safer Schools*, CTR. FOR AM. PROGRESS (9:02 am, Dec. 19, 2018), <https://www.americanprogress.org/issues/education-k-12/reports/2018/12/19/464445/smart-investments-safer-schools/>.

<sup>91</sup> *Building Back Better*, *supra* note 38.

allow policymakers and practitioners across states to learn from one another and share best practices. As a condition of the receipt of funds, states must also review existing health and safety regulations and issue updated regulations if necessary to ensure safe construction practices and healthy school environments.

### *Conclusion*

H.R. 604 is a necessary and long-overdue step toward closing the infrastructure gap in our nation's schools. The Committee believes that if passed and fully funded, H.R. 604 will bring public education closer to achieving the equality promised in *Brown*, and help ensure that every student, regardless of his or her zip code or family wealth, can learn in a high-quality, safe and healthy public school building.

## SECTION-BY-SECTION ANALYSIS

### *Section 1. Short title*

This cites the short title of the Act as the “Rebuild America’s Schools Act of 2022.”

### *Section 2. Definitions*

This section provides definitions for the terms “appropriate congressional committees,” “Bureau-funded school,” “covered funds,” “elementary school,” “local educational agency,” “outlying area,” “secondary school,” “public school facilities,” “qualified local educational agency,” “school infrastructure bond,” “Secretary,” “State”, and “net zero energy school”.

## TITLE I—GRANTS FOR THE LONG-TERM IMPROVEMENT OF PUBLIC SCHOOL FACILITIES

### *Section 101. Purpose and reservation*

This section states the purpose of this Act, which is to support “long-term improvements to public school facilities.” It also reserves 0.5 percent of total authorized funds for the outlying areas proportionate to their share of funds under ESEA Title I, and 0.5 percent of funds for schools funded by the Bureau of Indian Education (BIE).

### *Section 102. Allocation to states*

This section outlines the allocation of funds to states as well as state responsibilities under this Act. States shall be allocated funds in proportion to the funds that all local education agencies (LEAs) in the state receive under ESEA Title I. In exchange, states must review and issue regulations to ensure safe, healthy, and high-performing buildings and develop an online, publicly searchable database that outlines the condition of all public school facilities in the state. Other state requirements include a 10 percent matching requirement, a maintenance of effort assurance, and a supplement-not-supplant assurance. The matching requirement additionally allows States to use federal sources in fiscal years when appropriations exceed \$7 billion. This section also requires that states submit a plan to the Secretary of Education for approval to carry out the competitive grant program described in section 103.

*Section 103. Need-based grants to qualified local education agencies*

Section 103 provides for awarding funds by the state to qualified LEAs on a competitive basis. A qualified LEA must be receiving ESEA Title I funds. For a qualified LEA to be eligible to receive a need-based grant from the state it must meet at least one of multiple eligibility criteria.

All qualified LEAs in the state with the highest numbers of students counted under section 1124(c) of ESEA must be considered eligible for a need-based grant. All LEAs in the state with the highest percentages of students counted under section 1124(c) of ESEA must be considered eligible. In some instances, a LEA may meet both student eligibility criteria based on having both a high number and a high percentage of ESEA Title I-counted students.

The state is expected to set both number and percentage thresholds in determining grant eligibility from among all qualified LEAs. The number and percentage thresholds are intended to reasonably define the eligible subset of qualified LEAs across the state demonstrating the highest number of ESEA Title I-counted students and those agencies demonstrating the highest percentage of ESEA Title I-counted students respectively.

Additionally, the state shall extend eligibility to LEAs with the most limited capacity to raise funds for facility improvements based on assessing its current and historic ability to raise facility funds, ability to issue bonds or to receive other funds for school construction, and its bond rating.

Any LEA that is awarded need-based funds must prioritize the use of the funds in schools with highest percentage of students eligible for the free and reduced priced lunch program.

For fiscal year (FY) 2023, the state will give priority in awarding funds to qualified LEAs that will use the funds to improve the facilities of schools to mitigate the spread of the COVID-19 virus in line with guidance from the Centers for Disease Control and Prevention (CDC). Once the state prioritizes these projects, the state may use any remaining funds to award grants to other qualified LEAs.

In all other fiscal years, and for any grants the state makes with remaining funds in FY2023, the state will give priority in awarding funds to the qualified LEAs determined to be eligible for need-based grants that can demonstrate the greatest need for a grant by comparing the relative concentrations of ESEA Title I-counted students (both for numbers and for percentages), specific facility improvement needs such as proximity to toxic hazards or natural disaster vulnerability, as well as other indicators of need including age of facilities, over enrollment, condition of major building systems, condition of roofs, windows and doors, and other critical health and safety conditions.

Priority for funding shall be given to eligible LEAs that commit to using the grant to improve facilities in elementary and middle schools with not less than 40 percent of students eligible for the free and reduced-price lunch program, in high schools with not less than 30 percent school or feeder-school eligibility, or in a school operating under a severe health or safety threat. States may also give priority to eligible LEAs that serve schools that lack access to high-speed broadband, including from rural areas, to improve such ac-

cess, if such schools also meet one or more of the previously stated needs.

The state may reserve up to 10 percent of funds for grants to qualified LEAs to improve digital learning by leveraging other public funds or public-private partnerships to increase broadband access. The state also must ensure that grants are awarded to qualified LEAs that represent the geographic diversity of the state.

This section also outlines application requirements for qualified LEAs to compete for need-based grants. LEA applications must include the information necessary for states to determine if an LEA is qualified to receive a grant, as described above. LEA applications must also include a description of the projects the agency will carry out with the grant, along with an explanation of how such projects will improve the health and safety of staff, learning and equity for students, energy and water efficiency, and climate mitigation.

No later than 180 days after receiving a need-based grant, LEAs are required to submit a comprehensive 10-year facilities master plan to the state. In developing the facilities master plan, LEAs must consult with key stakeholders, including teachers, principals, and other school leaders. Bureau funded schools are also required to consult with the Bureau of Indian Education.

#### *Section 104. Annual report on grant program*

The Secretary of Education must annually submit to Congress a report that includes a description of the projects carried out under the grant program as well as the demographic information of students attending schools that used funds from the grant program.

#### *Section 105. Authorization of appropriations*

\$100 billion total is authorized for title I of this Act from FY2023 through FY2032.

### TITLE II—SCHOOL INFRASTRUCTURE BONDS

#### *Sec. 201. Restoration of certain qualified tax credit bonds*

This section restores sections 54A, 54E, and 6431 of the Internal Revenue Code of 1986 as if the repeals by the Tax Cuts and Jobs Act of 2017 had not taken effect. It amends section 54(E)(d)(3) of the Code to allow proceeds from Qualified Zone Academy Bonds (QZABs) to be used for construction and retrofitting of public school facilities. Section 201 permanently increases the national limitation for QZABs from \$400 million annually to \$1.4 billion annually and removes the private business contribution requirement for LEAs to participate in the QZAB program.

#### *Sec. 202. School infrastructure bonds*

This section amends the Internal Revenue Code of 1986 by adding “Section 54BB. School Infrastructure Bonds.” Section 202 designates a total national bond limitation of \$30 billion for qualified school infrastructure bonds (QSIBs), \$10 billion each for FY2022, FY2023, and FY2024. States may distribute up to 10 percent of the total bond limitation to enable LEAs to leverage existing public programs or public-private partnerships to expand access to high-speed broadband sufficient for digital learning.

Section 202 also allocates bond authority to states based on the proportion of funds that states receive under ESEA Title I. It requires that the federal government provide a tax credit of 100 percent of the interest on any QSIB—such credit may be issued as a tax credit to the bondholder or as a direct payment to the bond issuer. Section 202 reserves 0.5 percent of the bond allocation for outlying areas, and 0.5 percent of the bond allocation for schools funded by the BIE and requires states to use the same criteria outlined in section 103 in distribution of bond authority to LEAs, excluding provisions related to fiscal capacity.

*Section 203. Annual report on bond program*

The Secretary of Education must annually submit to Congress a report that includes the LEAs that participated in the bond program as well as LEAs that were unable to participate due to fiscal challenges.

TITLE III—GENERAL PROVISIONS

*Section 301. Allowable uses*

This section outlines the allowable uses of funds for titles I and II. Funds may be used to develop, maintain, or update the facilities master plan required under section 103(e) and generally to construct, modernize, renovate, build new schools, and retrofit public school facilities. Retrofitting may include seismic retrofitting for schools vulnerable to seismic natural disasters, as well as other retrofitting to bring facilities up to code to withstand other natural disasters, or otherwise bring facilities to compliance for fire, safety, and other health codes. Funds may also be used to decarbonize public school facilities through the adoption of all-electric space and water heating systems and kitchen equipment, in addition to other energy efficiency improvements.

LEAs may also use grants to install suitable furniture or fixtures with at-least a ten-year life-span. This can include installing size-appropriate fixtures if retrofitting a building for younger children, updating, science lab infrastructure, and construction and improvement of public playgrounds. Allowable uses also include: improvements to building exteriors and interiors to ensure they are well-protected and secure; major repairs or new investments in HVAC systems, which may include deferred maintenance costs; improvements to energy and water efficiency to lower costs and energy consumption including building modernizations that reduce reliance on fossil fuels and expand the use of solar power, wind power, and other renewable energy resources; improvements to ensure safe drinking water, or to generally ensure the health and safety of students and staff during construction; efforts to bring a school into compliance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973; construction of appropriate instructional space according to school course offerings and services; and any construction to expand or support facilities that house or support school-provided services. LEAs may also use funds to leverage existing public programs or public private partnerships to increase broadband access.

*Section 302. Prohibited uses*

Funds under titles I and II may not be used on athletic facilities or grounds that charge an admission fee, vehicles, central offices, or other facilities not primarily used to educate students. Funds also may not be used on routine maintenance or minor repairs. Additionally, funds may not be used for the facilities of for-profit charter schools or self-dealing charter schools in which the school leases the facilities from a for-profit entity or from an individual who has a management or governance role and indirect or direct financial interest in the school.

*Section 303. Requirements for hazard-resistance and energy and water conservation*

Section 303 requires LEAs that receive funds for new construction to meet or exceed the requirements of a nationally recognized, consensus-based model building code, and the performance criteria under the WaterSense program of the *Energy Policy and Conservation Act*, 42 U.S.C. 6294b. New construction must meet or exceed indoor environmental air quality requirements as set forth in a nationally-published or recognized code or standard.

*Section 304. Green practices*

Section 304 requires LEAs that receive funds for new construction to ensure that projects are certified, verified, or consistent with the United States Green Building Council Leadership in Energy and Environmental Design green building rating standard, the Living Building Challenge, a green building rating program developed by the Collaborative for High-Performance Schools, the Green Building Initiative Green Globes rating system, or a program with more stringent standards.

*Section 305. Use of American iron, steel, and manufactured products*

This section includes a “Buy America” provision for iron, steel, and manufactured products.

TITLE IV—REPORTS AND OTHER MATTERS

*Section 401. Comptroller General*

This section requires the Comptroller General to submit to Congress a report that must include the geographic distribution of projects, the impact of projects on student and staff health and safety, and how funds under these projects could be made more accessible to high-poverty schools and those with fiscal capacities.

*Section 402. Study and report of physical conditions of public schools*

This section requires that the Institute of Educational Sciences (IES) carry out a national study that includes the condition of public school facilities, the impact of such facilities on students and staff, and a cost estimate for bringing schools to good condition. Such a comprehensive report would capture school facilities that represent the breadth of schools in the country—urban, suburban, rural, from different geographic regions, and high poverty and high wealth schools.



*Section 403. Office of School Infrastructure and Sustainability*

This section requires that the Secretary of Education establish an Office of School Infrastructure and Sustainability within the Department of Education.

*Section 404. Development of data standards*

This section requires that the Secretary of Education, in consultation with the Environmental Protection Agency (EPA), Centers for Disease Control (CDC), Department of Energy (DOE), and National Institute for Occupational Safety and Health (NIOSH), develop guidance on data to be collected by states under section 102.

*Section 405. Information clearinghouse*

The Secretary of Education, in consultation with the officials in section 307, must disseminate information to schools on financing for green projects.

*Section 406. Sense of Congress on opportunity zones*

This section expresses a sense of Congress that opportunity zones, when combined with public infrastructure investment, can provide an innovative approach to rebuild local schools and economies.

TITLE V—IMPACT AID CONSTRUCTION

*Section 501. Temporary increase in funding for Impact Aid Construction*

This title temporarily increases funding for the Impact Aid Construction program under ESEA by \$500 million over fiscal years 2023 through 2027.

TITLE VI—ASSISTANCE FOR REPAIR OF SCHOOL FOUNDATIONS  
AFFECTED BY PYRRHOTITE

*Section 601. Allocations to states*

The Secretary of Education is directed to create a program, within 180 days of the bill's enactment into law, that would provide federal funding to states to distribute grants to LEAs for the repair or replacement of crumbling foundations due to pyrrhotite. It requires the Secretary to publish on the Department of Education's website instructions on how a state may receive funding for this program.

For schools with a pyrrhotite emergency that already qualify for a grant under title I of this Act, such schools may use their title I grant to address the emergency, and do not need to apply for this separate program.

*Section 602. Grants to local educational agencies*

This section requires the Secretary to award funds to states to either pay the future costs of repairing foundations deteriorating due to pyrrhotite, or to reimburse LEAs for the cost of repairs or replacement during the previous five-year period prior to this provision becoming law. LEAs must demonstrate that the school contains pyrrhotite in the foundation through proper laboratory, core,

or visual inspections by a professional engineer licensed in the state. LEAs must also have had any testing of the foundation done through the proper channels outlined by the state or other entity overseeing relief efforts for crumbling foundations. The LEA must also only use the funding for the allowable uses described in the bill and must have all work performed by a contractor or architect licensed in the state. The LEA must meet these same requirements for a reimbursement grant and must provide information indicating that the project was carried out with these parameters at the time it was completed.

LEAs must submit an application to the state that includes at minimum, information pertaining to the LEA's eligibility requirements, and an estimate of the cost of construction. If the LEA is applying for reimbursement, their application must include: proof of eligibility requirements, an itemized explanation of the costs incurred for the project, amounts already received from other federal, state, local, or private sources, the amount of reimbursement funds requested, and the percentage of funds covered by an insurance policy.

The state must approve any application from an LEA that is complete with the criteria outlined above. The state will then transmit an application to the Secretary. Within 60 days of receiving the application from the state, the Secretary must either approve or deny the application. If the Secretary approves the application, the Secretary must disburse funds to the state within 60 days of the application's approval. Once the state has received the funds from the Secretary, the state must disburse those funds to the LEA within 60 days.

To be eligible for federal funds, the state must provide at least 40 percent of the project's total costs, in the case of both reimbursement and grants made out in the future. In addition, the federal government may not provide any more than 50 percent of the total cost of the project.

Funds may be used to repair or replace a concrete foundation and other affected areas of a school to restore the structural integrity of the school to the health and safety standards outlined by the project's architect or engineer, and to restore the school to the condition it was in prior to the foundation's damage due to pyrrhotite. Funding may be used on other activities directly related to the project such as engineering reports, architectural design, and core tests.

LEAs receiving federal funds for a project may not use this funding for any work done to outbuildings, sheds, barns, swimming pools, playgrounds, ballfields, ponds, or water features. Funds may not be used for the purchase of any items not directly related to the repair or replacement of the school's crumbling foundation. Prohibited items include desks, chairs, electronics, sports equipment, or other school supplies. Any other activities not explicitly described in the "allowable uses" section are also prohibited. LEAs may not use funds under this title and title I for the same project.

*Section 603. Definitions*

*This section defines the terms “Pyrrhotite-affected school” and “qualified contractor”.*

*Section 604. Authorization of appropriations*

This section requires funds to be authorized to carry out the program for fiscal year 2023 and each fiscal year afterwards.

## EXPLANATION OF AMENDMENTS

The amendments, including the amendment in the nature of a substitute, are explained in the descriptive portions of this report.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

H.R. 604, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

## UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104–4), the Committee traditionally adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office (CBO) pursuant to section 402 of the *Congressional Budget and Impoundment Control Act of 1974*. The Committee reports that because this cost estimate was not timely submitted to the Committee before the filing of this report, the Committee is not in a position to make a cost estimate for H.R. 604, as amended..

## EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 604 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

## ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee’s consideration of H.R. 604:

Date: 05/18/2022

## COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:1

Bill: H.R.604

Amendment Number:2

Disposition: Defeated by a roll call vote of 19-26

Sponsor/Amendment: Steel / HR604\_RAMD\_05

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)			X
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLON (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)			X
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)	X		
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)			X	Mr. MURPHY (NC)	X		
Ms. WILD (PA)			X	Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)		X		Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)			X	Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)			X
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Mr. JACOBS (NY)	X		
Mrs. SHERFILUS-MCCORMICK (FL)		X		Vacancy			
Mr. POCAN (WI)		X		Vacancy			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 19

Nos:26

Not Voting:6

Total: 53 / Quorum: / Report:

(29 D - 24 R)

\*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 05/18/2022

## COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:2

Bill: H.R.604

Amendment Number:3

Disposition: Defeated by a roll call vote of 19-26

Sponsor/Amendment: McClain / HR604\_RAMD\_02

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)			X
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLON (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)			X
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)	X		
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)			X	Mr. MURPHY (NC)	X		
Ms. WILD (PA)			X	Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)		X		Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)			X	Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)			X
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Mr. JACOBS (NY)	X		
Mrs. SHERFILUS-MCCORMICK (FL)		X		Vacancy			
Mr. POCAN (WI)		X		Vacancy			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 19

Nos:26

Not Voting: 6

Total: 53 / Quorum: / Report:

(29 D - 24 R)

\*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 05/18/2022

## COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:3

Bill: H.R.604

Amendment Number:4

Disposition: Defeated by a roll call vote of 18-26

Sponsor/Amendment: Grothman / HR604\_RAMD\_04

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)			X
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLON (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)			X
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)	X		
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)			X	Mr. MURPHY (NC)	X		
Ms. WILD (PA)			X	Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)		X		Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)			X
Mr. JONES (NY)			X	Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)			X
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Mr. JACOBS (NY)	X		
Mrs. SHERFILUS-MCCORMICK (FL)		X		Vacancy			
Mr. POCAN (WI)		X		Vacancy			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 18

Nos:26

Not Voting: 7

Total: 53 / Quorum: / Report:

(29 D - 24 R)

\*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 05/18/202

## COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:4

Bill: H.R.604

Amendment Number:5

Disposition: Defeated by a roll call vote of 19-27

Sponsor/Amendment: Good / HR604\_RAMD\_06

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)			X
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)			X
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)	X		
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)			X	Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)		X		Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)			X	Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)			X
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Mr. JACOBS (NY)	X		
Mrs. SHERFILUS-MCCORMICK (FL)		X		<i>Vacancy</i>			
Mr. POCAN (WI)		X		<i>Vacancy</i>			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 19

Nos: 27

Not Voting: 5

Total: 53 / Quorum: / Report:

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 05/18/2022

## COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:5

Bill: H.R.604

Amendment Number:6

Disposition: Defeated by a roll call vote of 19-28

Sponsor/Amendment: Jacobs / HR604\_RAMD\_03

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)			X
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLON (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)			X
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)	X		
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)			X	Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)		X		Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)			X
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Mr. JACOBS (NY)	X		
Mrs. SHERFILUS-MCCORMICK (FL)		X		Vacancy			
Mr. POCAN (WI)		X		Vacancy			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 19

Nos:28

Not Voting: 4

Total: 53 / Quorum: / Report:

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.



Date: 5/18/22

## COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 6

Bill: 604

Amendment Number:

Disposition: Adopted by Full Committee Roll Call Vote 27-19

Sponsor/Amendment: Courtney motion to report H.R. 604 to the House with an amendment and with the recommendation that the amendment be agreed to, and the bill do pass

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)	X			Mrs. FOXX (NC) (Ranking)			
Mr. GRIJALVA (AZ)	X			Mr. WILSON (SC)		X	
Mr. COURNTEY (CT)	X			Mr. THOMPSON (PA)		X	
Mr. SABLON (MP)	X			Mr. WALBERG (MI)		X	
Ms. WILSON (FL)	X			Mr. GROTHMAN (WI)		X	
Ms. BONAMICI (OR)	X			Ms. STEFANIK (NY)		X	
Mr. TAKANO (CA)	X			Mr. ALLEN (GA)		X	
Ms. ADAMS (NC)	X			Mr. BANKS (IN)		X	
Mr. DESAULNIER (CA)	X			Mr. COMER (KY)			
Mr. NORCROSS (NJ)	X			Mr. FULCHER (ID)		X	
Ms. JAYAPAL (WA)	X			Mr. KELLER (PA)		X	
Mr. MORELLE (NY)				Mr. MURPHY (NC)		X	
Ms. WILD (PA)	X			Ms. MILLER-MEEKS (IA)		X	
Mrs. MCBATH (GA)	X			Mr. OWENS (UT)		X	
Mrs. HAYES (CT)	X			Mr. GOOD (VA)		X	
Mr. LEVIN (MI)	X			Mrs. MCCLAIN (MI)		X	
Ms. OMAR (MN)	X			Mrs. HARSHBARGER (TN)		X	
Ms. STEVENS (MI)	X			Mrs. MILLER (IL)		X	
Ms. LEGER FERNÁNDEZ (NM)	X			Mrs. SPARTZ (IN)		X	
Mr. JONES (NY)				Mr. FITZGERALD (WI)		X	
Ms. MANNING (NC)	X			Mr. CAWTHORN (NC)			
Mr. MRVAN (IN)	X			Mrs. STEEL (CA)		X	
Mr. BOWMAN (NY)	X			Mr. JACOBS (NY)		X	
Mrs. SHERFILUS-MCCORMICK (FL)	X			Vacancy			
Mr. POCAN (WI)	X			Vacancy			
Mr. CASTRO (TX)	X						
Ms. SHERRILL (NJ)	X						
Mr. ESPAILLAT (NY)	X						
Mr. KWEISI MFUME (MD)	X						

TOTALS: Ayes: 27

Nos: 19

Not Voting:

Total: 53 / Quorum: / Report:

(29 D - 24 R)

\*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

## STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 604 are to ensure equity in school facilities, assist states in their role in creating safe and healthy schools, and improve regulation of and data collection on the condition of public school facilities and the impact of such conditions on health and safety.

## DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 604 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## HEARINGS

Pursuant to section 103(i) of H. Res 6, the [hearing/hearings] that the Committee held on April 28, 2021 entitled “*Building Back Better: Investing in Improving Schools, Creating Jobs, and Strengthening Families and Our Economy*” as the legislative hearing that was used to develop or consider H.R. 604. The Committee heard testimony on a variety of topics in President Biden’s American Jobs Plan, including the poor quality of public school infrastructure across the country and the need for increased federal investment to rebuild unsafe school buildings, particularly in areas of greatest need. Testimony was received from Ms. Mary Filardo, Founder and Executive Director, 21st Century School Fund, Washington, DC; Mr. Rasheed Malik, M.P.P., Senior Policy Analyst, Early Childhood Policy, Center for American Progress, Arlington, VA; Mr. Mark Mitsui, College President, Portland Community College, Portland, OR; Mr. Brian Riedl, Senior Fellow in Budget, Tax, and Economics, The Manhattan Institute, Alexandria, VA; Mr. Neal McCluskey, Ph.D., Director, Center for Educational Freedom, Cato Institute, Washington, DC; Mr. Bob Lanter, Executive Director, California Workforce Association, Sacramento, CA.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the descriptive portions of this report.

## NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has requested but not re-

ceived a cost estimate for the bill from the Director of the Congressional Budget Office.

#### COMMITTEE COST ESTIMATE

Clause 3(d)(1) of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 604. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of *Congressional Budget and Impoundment Control Act of 1974*. The Committee reports that because this cost estimate was not timely submitted to the Committee before the filing of this report, the Committee is not in a position to make a cost estimate for H.R. XXXX, as amended.]

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 604, as reported, are shown as follows:

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

### INTERNAL REVENUE CODE OF 1986

\* \* \* \* \*

### Subtitle A—INCOME TAXES

\* \* \* \* \*

### CHAPTER 1—NORMAL TAXES AND SURTAXES

\* \* \* \* \*

### Subchapter A—DETERMINATION OF TAX LIABILITY

\* \* \* \* \*

### PART IV—CREDITS AGAINST TAX

\* \* \* \* \*

*SUBPART I—QUALIFIED TAX CREDIT BONDS*  
*SUBPART J—SCHOOL INFRASTRUCTURE BONDS*

\* \* \* \* \*

**Subpart I—QUALIFIED TAX CREDIT BONDS**

*Sec. 54A Credit to holder of qualified tax credit bonds.*

[Title II of H.R. 604 (as reported) provides for language to revive sections 54A and 54E of the Internal Revenue Code of 1986 “as in effect on the day before repeal by Public Law 115–97”. Sections 54A and 54E, as so restored and further amended by H.R. 604 (as reported), reads as follows:]

**§ 54A. Credit to holders of qualified tax credit bonds**

(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

(b) AMOUNT OF CREDIT.—

(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax credit bond is 25 percent of the annual credit determined with respect to such bond.

(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tax credit bond is the product of—

(A) the applicable credit rate, multiplied by

(B) the outstanding face amount of the bond.

(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

(c) LIMITATION BASED ON AMOUNT OF TAX.—

(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(B) the sum of the credits allowable under this part (other than subparts C and J and this subpart).

(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before

the application of paragraph (1) for such succeeding taxable year).

(d) QUALIFIED TAX CREDIT BOND.—For purposes of this section—

(1) QUALIFIED TAX CREDIT BOND.—The term “qualified tax credit bond” ~~means—~~ *means a qualified zone academy bond which is part* of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).

~~[(A) a qualified forestry conservation bond,~~

~~[(B) a new clean renewable energy bond,~~

~~[(C) a qualified energy conservation bond,~~

~~[(D) a qualified zone academy bond, or~~

~~[(E) a qualified school construction bond,~~

~~which is part]~~

(2) SPECIAL RULES RELATING TO EXPENDITURES.—

(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects—

(i) 100 percent of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and

(ii) a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.

(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 3 YEARS.—

(i) IN GENERAL.—To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

(ii) EXPENDITURE PERIOD.—For purposes of this subpart, the term “expenditure period” means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

(iii) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term “qualified purpose” means—

(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e),

(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1),

(iii) in the case of a qualified energy conservation bond, a purpose specified in section 54D(a)(1),

(iv) in the case of a qualified zone academy bond, a purpose specified in section 54E(a)(1), and

(v) in the case of a qualified school construction bond, a purpose specified in section 54F(a)(1).

(D) REIMBURSEMENT.—For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—

(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,

(ii) not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

(3) REPORTING.—An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).

(4) SPECIAL RULES RELATING TO ARBITRAGE.—

(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.

(B) SPECIAL RULE FOR INVESTMENTS DURING EXPENDITURE PERIOD.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

(C) SPECIAL RULE FOR RESERVE FUNDS.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—

(i) such fund is funded at a rate not more rapid than equal annual installments,

(ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and

(iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

(5) MATURITY LIMITATION.—

(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue does not exceed the maximum term determined by the Secretary under subparagraph (B).

(B) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

(6) PROHIBITION ON FINANCIAL CONFLICTS OF INTEREST.—An issue shall be treated as meeting the requirements of this paragraph if the issuer certifies that—

(A) applicable State and local law requirements governing conflicts of interest are satisfied with respect to such issue, and

(B) if the Secretary prescribes additional conflicts of interest rules governing the appropriate Members of Congress, Federal, State, and local officials, and their spouses, such additional rules are satisfied with respect to such issue.

(e) OTHER DEFINITIONS.—For purposes of this subchapter—

(1) CREDIT ALLOWANCE DATE.—The term “credit allowance date” means—

- (A) March 15,
- (B) June 15,
- (C) September 15, and
- (D) December 15.

Such term includes the last day on which the bond is outstanding.

(2) BOND.—The term “bond” includes any obligation.

(3) STATE.—The term “State” includes the District of Columbia and any possession of the United States.

(4) AVAILABLE PROJECT PROCEEDS.—The term “available project proceeds” means—

(A) the excess of—

- (i) the proceeds from the sale of an issue, over
- (ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and

(B) the proceeds from any investment of the excess described in subparagraph (A).

(f) CREDIT TREATED AS INTEREST.—For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

(g) S CORPORATIONS AND PARTNERSHIPS.—In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.

(h) BONDS HELD BY REAL ESTATE INVESTMENT TRUSTS.—If any qualified tax credit bond is held by a real estate investment trust,

the credit determined under subsection (a) shall be allowed to beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be distributed to such beneficiaries) under procedures prescribed by the Secretary.

(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified tax credit bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tax credit bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

\* \* \* \* \*

#### **§ 54E. Qualified zone academy bonds**

(a) QUALIFIED ZONE ACADEMY BONDS.—For purposes of this subchapter, the term “qualified zone academy bond” means any bond issued as part of an issue if—

(1) 100 percent of the available project proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,

(2) the bond is issued by a State or local government within the jurisdiction of which such academy is located, and

(3) the issuer—

(A) designates such bond for purposes of this section, and

[(B) certifies that it has written assurances that the private business contribution requirement of subsection (b) will be met with respect to such academy, and]

[(C)] (B) certifies that it has the written approval of the eligible local education agency for such bond issuance.

[(b) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—For purposes of subsection (a), the private business contribution requirement of this subsection is met with respect to any issue if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.]

[(c)] (b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

(1) NATIONAL LIMITATION.—There is a national zone academy bond limitation for each calendar year. Such limitation is \$400,000,000 for 2008, \$1,400,000,000 for 2009 and 2010, [and] \$400,000,000 for 2011, 2012, 2013, 2014, 2015, and 2016 [and, except as provided in paragraph (4), zero thereafter.], and \$1,400,000,000 for 2022 and each calendar year thereafter.

(2) ALLOCATION OF LIMITATION.—The national zone academy bond limitation for a calendar year shall be allocated by the



Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

(3) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under paragraph (2) for such calendar year.

(4) CARRYOVER OF UNUSED LIMITATION.—

(A) IN GENERAL.—If for any calendar year—

- (i) the limitation amount for any State, exceeds
  - (ii) the amount of bonds issued during such year which are designated under subsection (a) with respect to qualified zone academies within such State,
- the limitation amount for such State for the following calendar year shall be increased by the amount of such excess.

(B) LIMITATION ON CARRYOVER.—Any carryforward of a limitation amount may be carried only to the first 2 years following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in first-out basis.

(C) COORDINATION WITH SECTION 1397E.—Any carryover determined under section 1397E(e)(4) (relating to carryover of unused limitation) with respect to any State to calendar year 2008 or 2009 shall be treated for purposes of this section as a carryover with respect to such State for such calendar year under subparagraph (A), and the limitation of subparagraph (B) shall apply to such carryover taking into account the calendar years to which such carryover relates.

[(d)] (c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED ZONE ACADEMY.—The term “qualified zone academy” means any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if—

(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the eligible local education agency,

(C) the comprehensive education plan of such public school or program is approved by the eligible local education agency, and

(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or

community designated after the date of the enactment of this section), or

(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

(2) **ELIGIBLE LOCAL EDUCATION AGENCY.**—For purposes of this section, the term “eligible local education agency” means any local educational agency as defined in section 8101 of the Elementary and Secondary Education Act of 1965.

(3) **QUALIFIED PURPOSE.**—The term “qualified purpose” means, with respect to any qualified zone academy—

(A) ~~rehabilitating or repairing~~ *constructing, rehabilitating, retrofitting, or repairing* the public school facility in which the academy is established,

(B) providing equipment for use at such academy,

(C) developing course materials for education to be provided at such academy, and

(D) training teachers and other school personnel in such academy.

(4) **QUALIFIED CONTRIBUTIONS.**—The term “qualified contribution” means any contribution (of a type and quality acceptable to the eligible local education agency) of—

(A) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

(B) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

(C) services of employees as volunteer mentors,

(D) internships, field trips, or other educational opportunities outside the academy for students, or

(E) any other property or service specified by the eligible local education agency.

\* \* \* \* \*

### ***Subpart J—School Infrastructure Bonds***

*Sec. 54BB. School infrastructure bonds.*

#### **SEC. 54BB. SCHOOL INFRASTRUCTURE BONDS.**

(a) **IN GENERAL.**—*If a taxpayer holds a school infrastructure bond on one or more interest payment dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.*

(b) **AMOUNT OF CREDIT.**—*The amount of the credit determined under this subsection with respect to any interest payment date for a school infrastructure bond is 100 percent of the amount of interest payable by the issuer with respect to such date.*

(c) **LIMITATION BASED ON AMOUNT OF TAX.**—

(1) **IN GENERAL.**—*The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—*

(A) the sum of the regular tax liability of the taxpayer (as defined in section 26(b)) plus the tax imposed by section 55, over

(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

(d) SCHOOL INFRASTRUCTURE BOND.—

(1) IN GENERAL.—For purposes of this section, the term “school infrastructure bond” means any bond issued as part of an issue if—

(A) 100 percent of the available project proceeds of such issue are to be used for the purposes described in section 301 of the Reopen and Rebuild America’s Schools Act of 2021,

(B) the interest on such obligation would (but for this section) be excludable from gross income under section 103,

(C) the issue meets the requirements of paragraph (3), and

(D) the issuer designates such bond for purposes of this section.

(2) APPLICABLE RULES.—For purposes of applying paragraph (1)—

(A) for purposes of section 149(b), a school infrastructure bond shall not be treated as federally guaranteed by reason of the credit allowed under section 6431(a),

(B) for purposes of section 148, the yield on a school infrastructure bond shall be determined without regard to the credit allowed under subsection (a), and

(C) a bond shall not be treated as a school infrastructure bond if the issue price has more than a de minimis amount (determined under rules similar to the rules of section 1273(a)(3)) of premium over the stated principal amount of the bond.

(3) 6-YEAR EXPENDITURE PERIOD.—

(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects 100 percent of the available project proceeds to be spent for purposes described in section 301 of the Reopen and Rebuild America’s Schools Act of 2021 within the 6-year period beginning on such date of issuance.

(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 6 YEARS.—To the extent that less than 100 percent of the available project proceeds of the issue are expended at the close of the period described in subparagraph (A) with respect to such issue, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of

*the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.*

(e) *LIMITATION ON AMOUNT OF BONDS DESIGNATED.*—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1)(D) by any issuer shall not exceed the limitation amount allocated under subsection (g) for such calendar year to such issuer.

(f) *NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.*—The national qualified school infrastructure bond limitation for each calendar year is—

- (1) \$10,000,000,000 for 2022,
- (2) \$10,000,000,000 for 2023, and
- (3) \$10,000,000,000 for 2024.

(g) *ALLOCATION OF LIMITATION.*—

(1) *ALLOCATIONS.*—

(A) *STATES.*—After application of subparagraph (B) and paragraph (3)(A), the limitation applicable under subsection (f) for a calendar year shall be allocated by the Secretary among the States in proportion to the respective amounts received by all local educational agencies in each State under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the previous fiscal year relative to the total such amount received by all local educational agencies for the most recent fiscal year ending before such calendar year.

(B) *CERTAIN POSSESSIONS.*—One-half of 1 percent of the amount of the limitation applicable under subsection (f) for a calendar year shall be allocated by the Secretary to possessions of the United States other than Puerto Rico for such calendar year.

(2) *ALLOCATIONS TO SCHOOLS.*—The limitation amount allocated to a State or possession under paragraph (1) shall be allocated by the State educational agency (or such other agency as is authorized under State law to make such allocation) to issuers within such State or possession in accordance with the priorities described in subsections (c) and (d) of section 103 of the Reopen and Rebuild America's Schools Act of 2021 and the eligibility requirements described in section 103(b) of such Act, except that paragraph (1)(C) of such section shall not apply to the determination of eligibility for such allocation.

(3) *ALLOCATIONS FOR INDIAN SCHOOLS.*—

(A) *IN GENERAL.*—One-half of 1 percent of the amount of the limitation applicable under subsection (f) for any calendar year shall be allocated by the Secretary to the Secretary of the Interior for schools funded by the Bureau of Indian Affairs for such calendar year.

(B) *ALLOCATION TO SCHOOLS.*—The limitation amount allocated to the Secretary of the Interior under paragraph (1) shall be allocated by such Secretary to issuers or schools funded as described in paragraph (2). In the case of amounts allocated under the preceding sentence, Indian tribal governments shall be treated as qualified issuers for purposes of this subchapter.

(4) *DIGITAL LEARNING.*—Up to 10 percent of the limitation amount allocated under paragraph (1) or (3)(A) may be allo-

*cated by the State to issuers within such State (in the case of an amount allocated under paragraph (1)) or by the Secretary of the Interior to issuers or schools funded by the Bureau of Indian Affairs (in the case of an amount allocated under paragraph (3)(A)) to carry out activities to improve digital learning in accordance with section 301(b) of the Reopen and Rebuild America's Schools Act of 2021.*

*(h) INTEREST PAYMENT DATE.—For purposes of this section, the term “interest payment date” means any date on which the holder of record of the school infrastructure bond is entitled to a payment of interest under such bond.*

*(i) SPECIAL RULES.—*

*(1) INTEREST ON SCHOOL INFRASTRUCTURE BONDS INCLUD-  
IBLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.—  
For purposes of this title, interest on any school infrastructure  
bond shall be includible in gross income.*

*(2) APPLICATION OF CERTAIN RULES.—Rules similar to the  
rules of subsections (f), (g), (h), and (i) of section 54A shall  
apply for purposes of the credit allowed under subsection (a).*

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## **Subtitle F—Procedure and Administration**

\* \* \* \* \*

### **CHAPTER 63—ASSESSMENT**

\* \* \* \* \*

#### **Subchapter B—DEFICIENCY PROCEDURES IN THE CASE OF INCOME, ESTATE, GIFT, AND CERTAIN EXCISE TAXES**

\* \* \* \* \*

##### **SEC. 6211. DEFINITION OF A DEFICIENCY.**

(a) **IN GENERAL.**—For purposes of this title in the case of income, estate, and gift taxes imposed by subtitles A and B and excise taxes imposed by chapters 41, 42, 43, and 44 the term “deficiency” means the amount by which the tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44 exceeds the excess of—

(1) the sum of

(A) the amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

(B) the amounts previously assessed (or collected without assessment) as a deficiency, over—

(2) the amount of rebates, as defined in subsection (b)(2), made.

(b) **RULES FOR APPLICATION OF SUBSECTION (A).**—For purposes of this section—

(1) The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to payments on

account of estimated tax, without regard to the credit under section 31, without regard to the credit under section 33, and without regard to any credits resulting from the collection of amounts assessed under section 6851 or 6852 (relating to termination assessments).

(2) The term “rebate” means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by subtitle A or B or chapter 41, 42, 43, or 44 was less than the excess of the amount specified in subsection (a)(1) over the rebates previously made.

(3) The computation by the Secretary, pursuant to section 6014, of the tax imposed by chapter 1 shall be considered as having been made by the taxpayer and the tax so computed considered as shown by the taxpayer upon his return.

(4) For purposes of subsection (a)—

(A) any excess of the sum of the credits allowable under sections 21 by reason of subsection (g) thereof, 24 by reason of subsections (d) and (i)(1) thereof, 25A by reason of subsection (i) thereof, 32, 34, 35, 36, 36B, 6428, 6428A, 6428B, and 7527A over the tax imposed by subtitle A (determined without regard to such credits), and

(B) any excess of the sum of such credits as shown by the taxpayer on his return over the amount shown as the tax by the taxpayer on such return (determined without regard to such credits),

shall be taken into account as negative amounts of tax.

(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership-related items shall be made only as provided in subchapter C.

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## CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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### Subchapter A—PROCEDURE IN GENERAL

\* \* \* \* \*

[Title II of H.R. 604 (as reported) provides for language to revive section 6431 of the Internal Revenue Code of 1986 “as in effect on the day before repeal by Public Law 115–97”. Section 6431, as so restored and further amended by H.R. 604 (as reported), reads as follows:]

#### SEC. 6401. AMOUNTS TREATED AS OVERPAYMENTS.

(a) ASSESSMENT AND COLLECTION AFTER LIMITATION PERIOD.—The term “overpayment” includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto.

(b) EXCESSIVE CREDITS.—

(1) IN GENERAL.—If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to

refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, D, [and G] *G, I, and J* of such part IV), the amount of such excess shall be considered an overpayment.

(2) SPECIAL RULE FOR CREDIT UNDER SECTION 33.—For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year. The preceding sentence shall not apply to any credit so allowed by reason of section 1446.

(c) RULE WHERE NO TAX LIABILITY.—An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.

\* \* \* \* \*

## Subchapter B—RULES OF SPECIAL APPLICATION

\* \* \* \* \*

### SEC. 6431. CREDIT FOR QUALIFIED BONDS ALLOWED TO ISSUER.

(a) IN GENERAL.—In the case of a qualified bond issued before January 1, 2011, the issuer of such bond shall be allowed a credit with respect to each interest payment under such bond which shall be payable by the Secretary as provided in subsection (b).

(b) PAYMENT OF CREDIT.—The Secretary shall pay (contemporaneously with each interest payment date under such bond) to the issuer of such bond (or to any person who makes such interest payments on behalf of the issuer) 35 percent of the interest payable under such bond on such date.

(c) APPLICATION OF ARBITRAGE RULES.—For purposes of section 148, the yield on a qualified bond shall be reduced by the credit allowed under this section.

(d) INTEREST PAYMENT DATE.—For purposes of this subsection, the term “interest payment date” means each date on which interest is payable by the issuer under the terms of the bond.

(e) QUALIFIED BOND.—For purposes of this subsection, the term “qualified bond” has the meaning given such term in section 54AA(g).

(f) APPLICATION OF SECTION TO CERTAIN QUALIFIED TAX CREDIT BONDS.—

(1) IN GENERAL.—In the case of any specified tax credit bond—

(A) such bond shall be treated as a qualified bond for purposes of this section,

(B) subsection (a) shall be applied without regard to the requirement that the qualified bond be issued before January 1, 2011,

(C) the amount of the payment determined under subsection (b) with respect to any interest payment due under such bond shall be equal to the lesser of—

(i) the amount of interest payable under such bond on such date, or

(ii) the amount of interest which would have been payable under such bond on such date if such interest were determined at the applicable credit rate determined under section 54A(b)(3),

(D) interest on any such bond shall be includible in gross income for purposes of this title,

(E) no credit shall be allowed under section 54A with respect to such bond,

(F) any payment made under subsection (b) shall not be includible as income for purposes of this title, and

(G) the deduction otherwise allowed under this title to the issuer of such bond with respect to interest paid under such bond shall be reduced by the amount of the payment made under this section with respect to such interest.

(2) SPECIAL RULE FOR NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS.—In the case of any specified tax credit bond described in clause (i) or (ii) of paragraph (3)(A), the amount determined under paragraph (1)(C)(ii) shall be 70 percent of the amount so determined without regard to this paragraph and sections 54C(b) and 54D(b).

(3) SPECIFIED TAX CREDIT BOND.—For purposes of this subsection, the term “specified tax credit bond” **means** any qualified tax credit bond (as defined in section 54A(d)) **if—** *means any bond if—*

**[(A) such bond is—**

**[(i) a new clean renewable energy bond (as defined in section 54C),**

**[(ii) a qualified energy conservation bond (as defined in section 54D),**

**[(iii) a qualified zone academy bond (as defined in section 54E) determined without regard to any allocation relating to the national zone academy bond limitation for years after 2010 or any carryforward of any such allocation, or**

**[(iv) a qualified school construction bond (as defined in section 54F), and]**

**(A) such bond is—**

*(i) a qualified tax credit bond which is a qualified zone academy bond (as defined in section 54E) determined without regard to any allocation relating to the national zone academy bond limitation for years after 2010 or any carryforward of any such allocation, or*

*(ii) any school infrastructure bond (as defined in section 54BB), and*

**(B) the issuer of such bond makes an irrevocable election to have this subsection apply.**

\* \* \* \* \*



**SECTION 1601 OF THE AMERICAN RECOVERY AND  
REINVESTMENT TAX ACT OF 2009**

**SEC. 1601. APPLICATION OF CERTAIN LABOR STANDARDS TO  
PROJECTS FINANCED WITH CERTAIN TAX-FAVORED  
BONDS.**

Subchapter IV of chapter 31 of the title 40, United States Code, shall apply to projects financed with the proceeds of—

(1) any new clean renewable energy bond (as defined in section 54C of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(2) any qualified energy conservation bond (as defined in section 54D of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

[(3) any qualified zone academy bond (as defined in section 54E of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act, ]

[(4)] (3) any qualified school construction bond (as defined in section 54F of the Internal Revenue Code of 1986), and

[(5)] (4) any recovery zone economic development bond (as defined in section 1400U–2 of the Internal Revenue Code of 1986).

**ELEMENTARY AND SECONDARY EDUCATION ACT OF  
1965**

\* \* \* \* \*

**TITLE VII—IMPACT AID**

\* \* \* \* \*

**SEC. 7014. AUTHORIZATION OF APPROPRIATIONS.**

(a) **PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.**—For the purpose of making payments under section 7002, there are authorized to be appropriated \$66,813,000 for each of fiscal years 2017 through 2019, and \$71,997,917 for fiscal year 2020.

(b) **BASIC PAYMENTS; PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.**—For the purpose of making payments under section 7003(b), there are authorized to be appropriated \$1,151,233,000 for each of fiscal years 2017 through 2019, and \$1,240,572,618 for fiscal year 2020.

(c) **PAYMENTS FOR CHILDREN WITH DISABILITIES.**—For the purpose of making payments under section 7003(d), there are authorized to be appropriated \$48,316,000 for each of fiscal years 2017 through 2019, and \$52,065,487 for fiscal year 2020.

[(d) **CONSTRUCTION.**—For the purpose of carrying out section 7007, there are authorized to be appropriated \$17,406,000 for each of fiscal years 2017 through 2019, and \$18,756,765 for fiscal year 2020.]

(d) *CONSTRUCTION.*—*For the purpose of carrying out section 7007, there are authorized to be appropriated \$100,000,000 for each of fiscal years 2023 through 2027.*

(e) **FACILITIES MAINTENANCE.**—For the purpose of carrying out section 7008, there are authorized to be appropriated \$4,835,000

for each of fiscal years 2017 through 2019, and \$5,210,213 for fiscal year 2020.

\* \* \* \* \*

## MINORITY VIEWS

### INTRODUCTION

All students deserve access to an excellent education that prepares them for postsecondary success. This includes attending schools with adequate facilities to support teaching and learning. The majority has argued that H.R. 604 is necessary because America's school facilities are in crisis. That is debatable. While many schools across our country may be ready for upgrades and replacement, the last time federal data was collected, only 3 percent of the nation's permanent school buildings were rated as poor.<sup>1</sup>

However, it is beyond debate that the nation desperately needs expanded educational opportunities for families and students. Republicans are working alongside parents to defend students against left-wing ideologues that prioritize politics and a radical cultural agenda over the health, safety, and educational achievement of the nation's children. Securing opportunities for students should be the focus of the Committee's efforts. Instead, the majority took precious time to mark up this bill, a bill which has already been rejected once this Congress and that would, if enacted, exacerbate the historic inflation already crippling the economy. In addition, passing this bill ignores the tens of billions of dollars in COVID relief aid school districts are currently sitting on due to Democrats' so-called "American Rescue Plan."

#### *H.R. 604 has been rejected already*

Committee Republicans oppose H.R. 604, and we are joined in our opposition by House Democrats and the American people. As the majority knows, this bill has already been rejected once. H.R. 604 was voted out of this Committee in September of last year as part of the Committee's package to be included in the so-called Build Back Better plan. Build Back Better has been famously rejected in total by Democrats in the Senate and by the American people. But, before that rejection, this bill did not even survive the scrutiny of House Democrats, who dropped it from the Build Back Better bill that passed the House in November last year.<sup>2</sup> Given that reality, it is clear this bill was marked up only for political theater. Committee Republicans believe we should listen to the American people: they have rejected this bill once already, and we should join them.

#### *H.R. 604 would exacerbate already-historic inflation*

The American people know the Democrats' inflationary policies are hurting hard-working American families, and they know this

<sup>1</sup> <https://nces.ed.gov/pubs2014/2014022.pdf>.

<sup>2</sup> <https://www.congress.gov/congressional-record/volume-167/issue-201/house-section/article/H6375-4>.

bill would only make their lives worse. Americans are not enjoying learning—or for many people relearning—the basics of inflation. But the majority appears unwilling to learn those lessons at all.

A review of basic facts is necessary. First, the construction business is suffering many of the same supply challenges we have seen throughout the economy. The result of that has been rising costs. The U.S. Bureau of Labor Statistics tracks the cost of construction materials. Their index tracking those costs increased 34 percent between January 2021 and March 2022.<sup>3</sup> The prices of individual construction materials have also risen. The price of concrete increased 11 percent between January 2001 and March 2022.<sup>4</sup> Producer prices for painting and coating manufacturing rose 15.7 percent in 2021.<sup>5</sup>

This is the basic economic truth: too few resources chased by too much money causes inflation. And, unfortunately, this has very real impacts on real people. Because of supply shortages and increasing construction costs, home prices jumped 37 percent from spring 2020 to the spring of this year.<sup>6</sup> Even with the housing market softening as a result of the Federal Reserve's efforts to rein in inflation, home prices are still projected to increase 5 percent nationally over the next year.<sup>7</sup> This means fewer low-income families will be able to afford homes.

Democrats are responding to these economic realities by doing the opposite of what sound economic policy tells us. Last year, Congress enacted a \$1.2 trillion infrastructure package. Once spending under that bill begins in the coming months, supply shortages will likely get worse, causing prices to increase even further. Democrats want to compound these problems by passing a school construction bill to pump another \$100 billion or more into the construction market. This is insanity. We should all know that the first thing to do when in a hole is to stop digging. Committee Republicans urge the majority to avoid doing further harm to the economy and to hard-working Americans suffering under these soaring prices.

#### *H.R. 604 ignores school districts' unspent COVID money*

H.R. 604 also ignores that school districts are already flush with hardworking taxpayers' money. School districts received more than \$120 billion through the American Rescue Plan last year. Those funds can be used for facility upgrades, and so Democrats are faced with three challenges in trying to convince the American people that yet more taxpayer funds are needed.

First, very little of that \$120 billion has been spent. In the most recent data provided to Congress by the Department of Education, only 13 percent of the funds have been spent as of July 15th. Second, we know from press reports that some school districts are frivolously using those funds to upgrade their athletic facilities, not to upgrade key buildings related to instruction.<sup>8</sup> While H.R. 604

<sup>3</sup> <https://www.nationalreview.com/the-morning-jolt/the-worst-possible-timing-for-an-infrastructure-spending-spreed/>.

<sup>4</sup> Ibid.

<sup>5</sup> <https://www.cnbc.com/2022/02/08/why-the-us-is-facing-a-paint-shortage.html>.

<sup>6</sup> <https://fred.stlouisfed.org/series/CSUSHPINSA>.

<sup>7</sup> <https://www.corelogic.com/intelligence/u-s-home-price-insights/>.

<sup>8</sup> <https://apnews.com/article/coronavirus-pandemic-school-funding-sports-5b468b260ebd2593e53f03f9104d9bca>.

has a limited prohibition that would provide some guardrails, the track record for legislation like this is not promising. It is more than likely that this legislation will continue to allow taxpayer funds to be misspent on frivolous projects that will not improve students' education. Third, the week before H.R. 604 was marked up, the Department of Education informed school districts of its willingness to extend the period by which school districts can spend American Rescue Plan funds.<sup>9</sup> This was in response to school districts' concerns that they could not spend their funds by the deadline that is still more than two years away.

*Committee consideration of H.R. 604*

On May 18, 2022, the House Committee on Education and Labor met to mark up H.R. 604.

REJECTED AMENDMENTS

During consideration of H.R. 604, Committee Republicans offered several amendments to improve the bill. Unfortunately, the amendments were rejected by the Democrats. Those amendments were as follows:

- Rep. Michelle Steel (R-CA) offered an amendment to require the Department of Education to conduct a report on the impact of the bill on the cost and availability of construction supplies and to prohibit expenditures of funds under the bill unless the report shows that the bill will not increase costs or worsen supply shortages. As discussed above, H.R. 604 will likely exacerbate the already-crippling inflation our country is experiencing. This amendment would have ensured expenditures under the bill could not begin until the Department of Education provided evidence the bill would not worsen inflation.
- Rep. Lisa McClain (R-MI) offered an amendment to strike language requiring states to track in perpetuity the degree to which school facilities are in compliance with COVID-era guidance from the Centers for Disease Control and Prevention. The amendment also struck language giving priority in the first year of the program to school districts that will use the funds to improve school facilities to facilitate physical distancing, improve ventilation, and take other steps to mitigate COVID-19. As discussed above, school districts are already sitting on tens of billions of dollars in COVID aid that can already be used for COVID mitigation. In addition, these provisions show Democrats' unwillingness to let go of their permanent pandemic mentality.
- Rep. Glenn Grothman (R-WI) offered an amendment to require school districts to ensure that all employees, and the employees of contractors and subcontractors, paid with funds received under the bill be legally authorized to work in the United States. This amendment would expand on other provisions in the bill intended to protect American interests by ensuring that taxpayer funds go only to those who respect our nation's laws and play by the rules.

<sup>9</sup> <https://oese.ed.gov/files/2022/05/Late-Liquidation-Letter.pdf>.

- Rep. Bob Good (R–VA) offered an amendment to ensure school districts are ineligible for funds if they serve a sanctuary jurisdiction. The amendment would expand on other provisions in the bill intended to protect American interests by ensuring that communities that refuse to enforce the laws of our country do not benefit from taxpayer funds.
- Rep. Chris Jacobs (R–NY) offered an amendment to prohibit school districts from receiving grants under the bill if they have not expended all funds allocated to the district under the Elementary and Secondary School Emergency Relief Fund as appropriated under the CARES Act, the *Coronavirus Response and Relief Supplemental Appropriations Act, 2021*, and the *American Rescue Plan Act*. The amendment would ensure that H.R. 604 would not dump additional taxpayer funds into school districts that already have large amounts of federal dollars they are struggling to spend.

## CONCLUSION

As outlined in these Minority Views, marking up H.R. 604 was an act of political theater. Considering it on the House floor would be a further waste of time. This bill has already been rejected by the American people and by the majority’s colleagues in the House Democrat caucus. Worse, inflation in June was more than 9 percent, establishing a new forty-year-high.<sup>10</sup> Committee Republicans urge the majority to drop this destructive legislation so the Committee can address the challenges taxpayers want addressed: expanding educational opportunities for children and ensuring that parents’ interests are the priority of America’s schools.

VIRGINIA FOXX, *Ranking Member*.  
GLENN “GT” THOMPSON.  
TIM WALBERG.  
GLENN GROTHMAN.  
JIM BANKS.  
JAMES COMER.  
RUSS FULCHER.  
FRED KELLER.  
MARIANNETTE MILLER MEEKS,  
M.D.  
BURGESS OWENS.  
BOB GOOD.  
LISA C. McCLAIN.  
DIANA HARSHBARGER.  
MARY E. MILLER.  
SCOTT FITZGERALD.  
MADISON CAWTHORN.  
CHRIS JACOBS.



<sup>10</sup><https://www.bloomberg.com/news/articles/2022-07-13/us-inflation-accelerates-to-9-1-once-again-exceeding-forecasts>.